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

**Milan, 26 August-6 September 1985**

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Department of International Economic and Social Affairs

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*Report prepared by the Secretariat*



**UNITED NATIONS**

**New York, 1986**

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Part one

DECISIONS OF THE CONGRESS

## CHAPTER I

### DECISIONS OF THE CONGRESS

1. The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985, adopted six major instruments (see sects. A, B, C (1 and 2) and D below), 26 resolutions and a decision (see sects. C (3 and 4) and E), the texts of which are set forth below.

#### A. Adoption of the Milan Plan of Action

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

Bearing in mind the Caracas Declaration, 1/ unanimously approved by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Having extensively discussed and carefully considered the results of the regional and interregional preparatory meetings, including the Meeting of the Panel of Eminent Persons on the New Dimensions of Criminality and Crime Prevention in the Context of Development, held at New Delhi from 22 to 26 April 1985, 2/

Adopts the Milan Plan of Action set out below and submits it to the United Nations General Assembly at its fortieth session for consideration:

#### MILAN PLAN OF ACTION

1. Crime is a major problem of national and, in some cases, international dimensions. Certain forms of crime can hamper the political, economic, social and cultural development of peoples and threaten human rights, fundamental freedoms, and peace, stability and security. In certain cases it demands a concerted response from the community of nations in reducing the opportunities to commit crime and address the relevant socio-economic factors, such as poverty, inequality and unemployment. The universal forum of the United Nations has a significant role to play and its contribution to multilateral co-operation in this field should be made more effective.

2. The past years have witnessed rapid and far-reaching social and economic transformations in many countries. Development is not criminogenic per se, especially where its fruits are equitably distributed among all the peoples,

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1/ Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August-5 September 1980: report prepared by the Secretariat (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. A; see also General Assembly resolution 35/171, annex.

2/ For the report of the meeting, see A/CONF.121/IPM/5.

thus contributing to the improvement of overall social conditions; however, unbalanced or inadequately planned development contributes to an increase in criminality.

3. The success of criminal justice systems and strategies for crime prevention depend on the progress achieved in preserving peace, improving social conditions, making progress towards a new international economic order and enhancing the quality of life. The multisectoral and interdisciplinary nature of crime prevention and criminal justice, including their linkages to peace, demands the co-ordinated attention of various agencies and disciplines.

4. Crime prevention and criminal justice should be considered in the context of economic development, political systems, social and cultural values and social change, as well as in the context of the new international economic order. The criminal justice system should be fully responsive to the diversity of political, economic and social systems and to the constantly evolving conditions of society.

5. In the light of those general considerations, the following recommendations are made as essential elements of an effective plan of action for consideration by the United Nations General Assembly:

(a) Governments should accord high priority to crime prevention and criminal justice through, inter alia, the strengthening of national crime prevention mechanisms and the allocation of adequate resources;

(b) Interested Governments should co-operate bilaterally and multilaterally, to the fullest extent possible, with a view to strengthening crime prevention measures and the criminal justice process by undertaking action-oriented programmes and projects;

(c) Since criminality is a dynamic concept, the United Nations and Member States should continue to strengthen their research capacity and to take action to develop the required data bases on crime and criminal justice. In particular, attention should be given to possible interrelationships between criminality and specific aspects of development, such as population structure and growth, urbanization, industrialization, housing, migration and employment opportunities;

(d) There is also need for further study of crime and criminality in relation to human rights and fundamental freedoms and for investigation of traditional and new forms of crime;

(e) Member States should adopt concrete and urgent measures to eradicate racial discrimination, particularly apartheid, and other forms of oppression and discrimination against peoples, and should refrain from committing any acts which would undermine the sovereignty and independence of countries;

(f) Priority must be given to combating terrorism in all its forms including, when appropriate, by co-ordinated and concerted action by the international community;

(g) It is imperative to launch a major effort to control and eventually eradicate the destructive phenomena of illicit drug traffic and abuse and of organized crime, both of which disrupt and destabilize societies;

(h) Continued attention should be given to the improvement of criminal justice systems so as to enhance their responsiveness to changing conditions and requirements in society and to the new dimension of crime and criminality. The United Nations should facilitate the exchange of information and experiences between Member States and should undertake study and policy research, drawing on available expertise;

(i) Non-governmental organizations should continue to be effectively involved in the work of the United Nations in the field of crime prevention and criminal justice;

(j) The Secretary-General of the United Nations is requested to review, in consultation with the Committee on Crime Prevention and Control, the functioning and programme of work of the United Nations in the field of crime prevention and criminal justice, including the United Nations regional and interregional institutes, in order to establish priorities and to ensure the continuing relevance and responsiveness of the United Nations to emerging needs. In such a review, special attention should be given to improving the co-ordination of relevant activities within the United Nations in all related areas. Given the diversity of economic, social and cultural situations, it is also imperative to initiate and strengthen the subregional, regional and interregional programmes of the United Nations in the field of crime prevention and criminal justice with the concurrence of concerned Member States;

(k) The regional and interregional institutes of the United Nations should be strengthened and their programmes reinforced to meet the requirements of their respective constituencies. Action should be taken for the immediate establishment in Africa of the long-delayed regional institute for the prevention of crime and the treatment of offenders;

(l) The capacity of the United Nations to extend technical co-operation to developing countries, upon their request, should be urgently reinforced, particularly in the areas of training, planning, exchange of information and experiences, reappraisal of legal systems in relation to changing socio-economic conditions and appropriate measures to combat criminality in all forms. Necessary action should be taken to promote regional advisory services in this field. All of those efforts require adequate resources;

(m) Member States should intensify their efforts in developing the widest possible public participation in preventing and combating crime and to this end efforts should be made to engender the widest public education.

6. Member States are urged to implement the Plan of Action as the collective endeavour of the international community to deal with a major problem whose disruptive and destabilizing impact on society is bound to increase unless concrete and constructive action is taken on an urgent and priority basis.

B. Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order

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

Recalling the Caracas Declaration, unanimously adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 3/

Recalling also General Assembly resolution 35/171 of 15 December 1980, in which the Assembly endorsed the Caracas Declaration and urged implementation of the recommendations relating to the new perspective for international co-operation in crime prevention in the context of development adopted by the Sixth Congress,

Recalling further General Assembly resolution 36/21 of 9 November 1981, in which the Seventh Congress was invited to consider current and emerging trends in crime prevention and criminal justice with a view to defining new guiding principles for the future course of crime prevention and criminal justice in the context of development needs and the goals of the International Development Strategy for the Third United Nations Development Decade and a new international economic order, taking into account the political, economic, social and cultural circumstances and traditions of each country and the need for crime prevention and criminal justice systems to be consonant with the principles of social justice,

Bearing in mind Economic and Social Council resolution 1982/29 of 4 May 1982, in which the Council approved the provisional agenda for the Seventh Congress, encouraged Governments to make adequate preparations and requested the Secretary-General to take all necessary measures to ensure the success of the preparatory activities and of the Congress itself,

Bearing in mind also General Assembly resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974, containing the Declaration and the Programme of Action on the Establishment of a New International Economic Order, which is one of the principal guarantees for the creation of better conditions so that all peoples may attain a decent life,

Mindful further that the International Development Strategy for the Third United Nations Development Decade 4/ declares that the ultimate aim of development is the constant improvement of the well-being of the entire population on the basis of its full participation in the process of development and a fair distribution of the benefits therefrom,

Emphasizing the responsibility assumed by the United Nations in crime prevention under General Assembly resolution 415 (V) of 1 December 1950, which was reconfirmed by the Economic and Social Council in resolutions 731 F (XXVIII) of 30 July 1959 and 830 D (XXXII) of 2 August 1961, and in the promotion and strengthening of international co-operation in this field, in accordance with

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3/ Sixth United Nations Congress ..., chap. I, sect. A.

4/ General Assembly resolution 35/56, annex.

Assembly resolutions 3021 (XXVII) of 18 December 1972, 32/59 and 32/60 of 8 December 1977, 35/171 of 15 December 1980 and 36/21 of 9 November 1981,

Bearing in mind also the importance of preserving peace as a condition for development and international co-operation, and that the theme of the Congress was "crime prevention for freedom, justice, peace and development",

Alarmed by the growth and seriousness of crime in many parts of the world, including both conventional and non-conventional criminality, which have a negative impact on the quality of life,

Considering that crime, particularly in its new forms and dimensions, seriously impairs the development process of many countries, as well as their international relations, thus, inter alia, compromising the attainment of the objectives of the International Development Strategy for the Third United Nations Development Decade and the establishment of a new international economic order,

Noting that the function of the criminal justice system is to contribute to the protection of the basic values and norms of society,

Aware also of the importance of enhancing the efficiency and effectiveness of criminal justice systems,

Noting also that to limit the harm caused by modern economic and unconventional crime effectively, policy measures should be based on an integrated approach, the main emphasis being placed on the reduction of opportunities to commit crime and on the strengthening of norms and attitudes against it,

Aware of the importance of crime prevention and criminal justice, which embrace policies, processes and institutions aimed at controlling criminality and ensuring equal and fair treatment for all those involved in the criminal justice process,

Mindful that the inclusion of crime prevention and criminal justice policies in the planning process can help to improve the life of people in the world, promote the equality of rights and social security, enhance the effectiveness of crime prevention, especially in such spheres as urbanization, industrialization, education, health, population growth and migration, housing and social welfare and substantially reduce the social costs directly and indirectly related to crime prevention and control by ensuring social justice, respect for human dignity, freedom, equality and security,

Convinced that due attention should be paid to crime prevention and criminal justice and the related processes, including the fate of victims of crime, the role of youth in contemporary society and the application of United Nations standards and norms,

Recognizing that the formulation of new guiding principles can assist in the enhancement of the role of crime prevention and criminal justice in relation to cultural and political development, to be pursued at the various stages of local, national, subregional, regional and interregional planning,

Acknowledging the urgent need for more effective international co-operation between Governments, keeping in mind that the international and national economic

and social orders are closely related and are becoming more and more interdependent and that, as a growing socio-political problem, crime may transcend national boundaries,

1. Reaffirms the crucial role of the United Nations in the field of international co-operation in crime prevention and criminal justice, and the treatment of offenders in the broader context of socio-economic development and the establishment of a new international economic order;

2. Recommends the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, annexed to the present resolution, for national, regional and international action, as appropriate, taking into account the political, economic, social and cultural circumstances and traditions of each country on the basis of the principles of the sovereign equality of States and non-interference in their internal affairs;

3. Invites Governments to be guided by the principles annexed hereto in the formulation of appropriate legislation and policy directives;

4. Also invites Member States systematically to monitor the steps being taken to ensure co-ordination of efforts in the planning and execution of effective and humane measures to reduce the social costs of crime and its negative effects on the development process, as well as to explore new avenues for international co-operation in this field;

5. Urges the regional commissions, the regional and international institutes in the field of crime prevention and the treatment of offenders, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations having consultative status with the Economic and Social Council to become actively involved in the implementation of the guiding principles;

6. Calls upon the Committee on Crime Prevention and Control to consider necessary ways and means to ensure appropriate action to follow up on the implementation of the present resolution;

7. Requests the Secretary-General to take steps, as appropriate, to ensure the widest possible dissemination of the guiding principles, and the intensification of information activities in this field;

8. Also requests the Secretary-General, in his current review of existing priorities and programmes, to strengthen crime prevention and criminal justice activities in order to ensure more effective international co-operation in this field, including technical assistance to requesting countries and regional and subregional programmes of training, research and exchange of information;

9. Further requests the Secretary-General to prepare a report on the implementation of the present resolution for consideration by the General Assembly;

10. Invites the Economic and Social Council and the General Assembly to consider the above issues, as a matter of priority.

## ANNEX

### Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order

#### A. Crime prevention and a new international economic order

##### International order and national structures

1. In view of the relationship between crime prevention, development and a new international economic order, changes in the economic and social structure should be accompanied by appropriate reforms in criminal justice, so as to ensure the responsiveness of the penal system to the basic values and goals of society, as well as to the aspirations of the international community.

##### New international economic order and individual guarantees

2. A just, fair and humane criminal justice system is a necessary condition for the enjoyment by the citizens of all countries of fundamental human rights. It contributes to an equal opportunity for economic, social and cultural life. In this connection, international co-operation should be encouraged to foster balanced economic developments of Member States, through restructuring of the international economic system, with due emphasis on the aspects of crime prevention and proper functioning of the criminal justice system.

##### Development objectives and elimination of causes of injustice

3. Human development objectives including the prevention of crime, should be one of the main aims of the establishment of a new international economic order. In this context, policies for crime prevention and criminal justice should take into account the structural causes, including socio-economic causes, of injustice, of which criminality is often but a symptom.

##### New directions and approaches

4. New directions and approaches should be explored at the national and international levels regarding concepts, measures, procedures and institutions of crime prevention and criminal justice.

##### Relations between States

5. In conformity with the purposes of the United Nations, Member States should refrain in their relations with other States from committing such acts aimed at harming the development of other countries, leading to massive human suffering and even causing death. In such relations, Member States should assist each other, as far as they are able, in all efforts and measures serving crime prevention and criminal justice, and thus promote the development and progress of those countries.

##### Especially harmful crimes

6. The prevention of crime as a global phenomenon should not be confined to common criminality, but should address itself also to those acts which are

especially harmful, for example, economic crime, environmental offences, illegal trafficking in drugs, terrorism, apartheid and offences of comparable severity impinging on the legal peace and internal security to an unusual extent. These would embrace crimes in which public and private institutions, organizations and individuals may be directly and indirectly involved.

#### Protection against industrial crime

7. In view of the characteristics of contemporary post-industrial society and the role played by growing industrialization, technology and scientific progress, special protection against criminal negligence should be ensured in matters pertaining to public health, labour conditions, the exploitation of natural resources and the environment and the provision of goods and services to consumers.

#### Economic crimes

8. The laws governing the functioning of business enterprises should be reviewed and strengthened as necessary to ensure their effectiveness for preventing, investigating and prosecuting economic crime. In addition, consideration should be given to having complex cases of economic crime heard by judges familiar with accounting and other business procedures. Adequate training should also be provided to officials and agencies responsible for the prevention, investigation and prosecution of economic crimes.

#### Issues of corporate responsibility

9. Due consideration should be given by Member States to making criminally responsible not only those persons who have acted on behalf of an institution, corporation or enterprise, or who are in a policy-making or executive capacity, but also the institution, corporation or enterprise itself, by devising appropriate measures that would prevent or sanction the furtherance of criminal activities.

#### Adequate sanctioning

10. Every effort should be made to achieve equivalent penalization of economic crimes and of conventional crimes of comparable gravity by means of appropriate sentencing policies and practices, so as to eliminate any undue inequality between sanctions for conventional property offences and those for new forms of economic crime. With that aim in view, more appropriate penalties or sanctions for economic crimes should be introduced whenever the existing measures do not correspond to the extent and gravity of those offences.

#### Damage and financial resources

11. When determining the nature and severity of penalties for economic crimes and related offences, both the harmfulness and potential harmfulness of the offence and the degree of guilt of the offender should be taken into account. Economic sanctions, in particular severe economic penalties, should be graded in such a way as to ensure that they are equally exemplary for both poor and wealthy offenders, taking into account the financial resources of those criminally responsible. Sanctions and legal measures should in the first place aim at taking away any financial or economic advantages obtained through such crimes.

## Victim compensation

12. The necessary legislative and other measures should be taken in order to provide the victims of crimes with effective means of legal protection, including compensation for damage suffered by them as a result of the crimes.

## B. National development and the prevention of crime

### Development, peace and justice

13. Development aimed at fostering economic growth and social progress and at ensuring peace in the world and social justice by means of a comprehensive and integrated approach should be planned and properly implemented on the basis of the contributions of various factors, including fair policies of crime prevention and criminal justice.

### Crime prevention and planning

14. Integrated or co-ordinated crime prevention and criminal justice policies should not only reduce the human and social costs of traditional and new forms of criminality, but should also, where appropriate, help provide safeguards to ensure equitable and full public participation in the development process, thereby enhancing the viability of national development plans, programmes and actions.

### Systematic approach

15. Crime prevention and criminal justice should not be treated as isolated problems to be tackled by simplistic, fragmentary methods, but rather as complex and wide-ranging activities requiring systematic strategies and differentiated approaches in relation to:

(a) The socio-economic, political and cultural context and circumstances of the society in which they are applied;

(b) The developmental stage, with special emphasis on the changes taking place and likely to occur and the related requirements;

(c) The respective traditions and customs, making maximum and effective use of human indigenous options.

### Integrated or co-ordinated approach to planning

16. When making national plans, States should base those plans on a global, intersectoral and integrated or co-ordinated approach with short-term, medium-term and long-term objectives. This would permit the evaluation of the effects of the decisions taken, mitigate their possible negative economic and social consequences and decrease the opportunities for committing crimes, while increasing legitimate avenues for the fulfilment of needs.

### Trends and social impact studies

17. Development projects and programmes that are to be planned and executed in conformity with local, regional and national realities should be based on reliable assessment and forecast of present and future socio-economic trends, including

crime, and on studies of the social impact and consequences of the policy decisions and investments. Feasibility studies, which usually involve considerations of economic viability, should also include social factors and be complemented by research on the possible criminogenic consequences of such projects, with alternative strategies for avoiding them.

#### Intersectoral planning

18. Efforts towards intersectoral planning should be designed to achieve interaction and co-operation between economic planners, agencies and the criminal justice sector, in order to establish or strengthen appropriate co-ordination mechanisms and to increase the responsiveness of crime prevention policies to developmental requirements and changing conditions.

#### Sectoral planning

19. Crime prevention and criminal justice planning should be carried out from a dynamic and systematic perspective, taking into account the interrelationships of activities and functions in the areas of legislation, law enforcement, the judicial process, the treatment of offenders and juvenile justice, with a view to ensuring greater coherence, consistency, accountability, equity and fairness within the broad framework of national development objectives. A systematic weighting of social costs and benefits would permit, in the case of alternatives, the selection of that option which exacts the least human and material costs while yielding the maximum benefits.

#### Crime prevention planning and co-ordination

20. The establishment of one or several planning and co-ordinating bodies or mechanisms, at both the national and the local levels, with the participation of representatives of the different criminal justice subsystems and other experts and with the involvement of members of the community, should be promoted because of its special value in assessing needs and priorities, improving resource allocation, and monitoring and evaluating policies and programmes. The following should also be included in the objectives of such planning and co-ordinating bodies or mechanisms:

- (a) Encouraging local research potential and developing indigenous capabilities in respect of planning for crime prevention;
- (b) Assessing the social costs of crime and the efforts to control it and generating awareness of the significance of its economic and social impact;
- (c) Developing means for more accurately collecting and analysing data concerning crime trends and criminal justice, as well as studying the various socio-economic factors bearing on them;
- (d) Keeping under review crime prevention and criminal justice measures and programmes in order to evaluate their effectiveness and to determine whether they require improvement;
- (e) Maintaining working relations with other agencies dealing with national development planning in order to secure the necessary co-ordination and mutual feedback.

### Crime prevention as part of social policy

21. The criminal justice system, besides being an instrument to effect control and deterrence, should also contribute to the objective of maintaining peace and order for equitable social and economic development, redressing inequalities and protecting human rights. In order to relate crime prevention and criminal justice to national development targets, efforts should be made to secure the necessary human and material resources, including the allocation of adequate funding, and to utilize as much as possible all relevant institutions and resources of society, thus ensuring the appropriate involvement of the community.

### Interrelations between development and criminality

22. Further study and research on the possible interrelationships between criminality and certain aspects of development, such as population structure and growth, urbanization, industrialization, housing, migration, health, education and employment opportunities, should be undertaken in order to increase the responsiveness of crime prevention and criminal justice policies, in a dynamic way, to changing socio-economic, cultural and political conditions. Those studies should be conducted, when possible, from an interdisciplinary perspective and should be directed towards policy formulation and practical action.

#### C. The responsiveness of the criminal justice system to development and human rights 5/

##### Development and fundamental human rights

23. Socio-economic programmes and national planning should be conducive to the promotion, protection and efficacy of social justice, fundamental freedoms and human rights. Existing socio-economic policies and programmes should be examined in the light of their implications for the achievement of those objectives.

##### Legal systems, criminal justice and development

24. Legal systems, including criminal justice, should be instrumental in promoting beneficial and equitable development and due regard to human rights and social justice considerations, in ensuring that those performing judicial or quasi-judicial functions exercise them in a manner that is independent of personal or group interest and in maintaining impartiality in the staffing of the courts, in the conduct of criminal court proceedings and in the provision of public access to them.

##### Periodic reappraisal of criminal justice policies and practices

25. There should be in every country, regardless of its stage of development, a periodic reappraisal of the existing criminal justice policies and practices in relation to both formal and informal means of social control, so as to foster their concordance and responsiveness to emerging requirements deriving from socio-economic, cultural and other changes.

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5/ As defined in relevant United Nations legislation.

### Written laws and societal structures and values

26. The conflicts existing in many countries between indigenous institutions and traditions for the solution of socio-legal problems and the frequently imported or superimposed foreign legislation and codes should be reviewed with a view to assuring that official norms appropriately reflect current societal values and structures.

### Unrestricted access to the legal system

27. Legal systems should endeavour, through appropriate policies aimed at overcoming socio-economic, ethnic, cultural and political inequalities or disparities whenever they exist, to optimize access to justice for all segments of society, especially the most vulnerable ones. Appropriate mechanisms for legal aid and the protection of basic human rights, in accordance with the demands of justice, should be established wherever they do not exist. Legal systems should also provide readily available, less costly and non-cumbersome procedures for the peaceful settlement of disputes and litigation or arbitration, so as to ensure prompt and just parajudicial and judicial action for everybody while offering the means for widespread legal assistance for the effective defence of all those in need.

### Community participation

28. Various forms of community participation should be explored and encouraged in order to create suitable alternatives to purely judicial interventions, which would provide more readily accessible methods of administering justice, such as mediation, arbitration and conciliation courts. Community participation in all phases of crime prevention and criminal justice processes should, therefore, be further promoted and strengthened, paying full attention to the protection of human rights.

### Mass media and education

29. The role of the mass media and its impact on aspects of crime prevention and criminal justice should be examined and evaluated, since public perceptions of criminal policies and public attitudes are central to the effectiveness and fairness of the legal system. In this connection, the mass media should be encouraged to contribute positively to the education of the public on issues of crime prevention and criminal justice, as an important tool of socialization, together with programmes of civic and legal education.

### Human rights, social justice and effective crime prevention

30. While protecting human rights and promoting social justice, improvements in the effectiveness of crime prevention and criminal justice policies should be encouraged through the use of community and other alternatives to incarceration, by avoiding unnecessary delay in the administration of justice, by fostering staff training evaluation and by scientific and technological innovations and action-oriented research, especially when there is need to maximize limited financial and human resources.

### Traditional forms of social control

31. When new crime prevention measures are introduced, necessary precautions should be taken not to disrupt the smooth and effective functioning of traditional systems, full attention being paid to the preservation of cultural identities and the protection of human rights.

### New forms of crime and criminal sanctions

32. Criminal sanctions, generally applied to counteract conventional criminality, should also be oriented towards new forms and dimensions of crime through the adoption of new legislative instruments and measures adequate to meet the challenges and by means of innovative techniques for detection, investigation, prosecution and sentencing. Appropriate instruments and mechanisms for international co-operation should likewise be devised and applied in order to cope effectively with such new and dangerous manifestations of crime.

### Overall re-examination of criminal justice measures

33. The limited resources of the criminal justice system should be allocated on the basis of careful consideration of the benefits and costs associated with alternative strategies, taking into account not only the direct and indirect costs of crime, but also the social consequences associated with its control. In this connection, constant efforts should be made to consider the use of alternatives to judicial intervention and institutionalization procedures, including community-oriented alternatives, thus decreasing the level of undue criminalization and penalization and reducing its social and human costs.

### Modern technology and potential for abuses

34. New developments in science and technology should be used everywhere in the interest of the people and thus also for effective crime prevention. However, since modern technology may produce new forms of crime, appropriate measures should be taken against potential abuses. In particular, as computer systems may result in the accumulation of personal data that could be used to violate human rights, including the right to privacy, or to engage in other abuses, appropriate safeguards should be adopted, confidentiality ensured and a system of individual access to such data and of correction of errors should be established, together with appropriate procedures for expurgating such data in order to alleviate these and other discriminatory aspects deriving from their possible abuse.

### Social marginality and inequality

35. In view of the staggering dimensions of social, political, cultural and economic marginality of many segments of the population in certain countries, criminal policies should avoid transforming such deprivation into likely conditions for the application of criminal sanctions. Effective social policies should, on the contrary, be adopted to alleviate the plight of the disadvantaged, and equality, fairness and equity in the processes of law enforcement, prosecution, sentencing and treatment should be ensured so as to avoid discriminatory practices based on socio-economic, cultural, ethnic, national or political backgrounds, on sex or on material means. It is necessary to proceed from the principle that the establishment of genuine social justice in the distribution of material and spiritual goods among all members of society, the elimination of all forms of exploitation and of social and economic inequality and oppression, and the real

assurance of all basic human rights and freedoms represent a principal hope for the successful combating of crime and its eradication from the life of society in general.

D. International co-operation in crime prevention and criminal justice

Importance of international co-operation

36. All States and entities should co-operate through the United Nations or otherwise in the prevention and control of crime as an indispensable element for contributing to the promotion of the peace and security of mankind, while enhancing the effectiveness, viability and fairness of criminal justice. 6/

International law and criminal justice

37. Since international co-operation on crime prevention and criminal justice is desirable, the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation.

International instruments

38. In order to render the prosecution and adjudication of transnational and international crimes more effective, existing international instruments governing such crimes should be ratified and implemented.

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6/ The need for international co-operation in crime prevention and criminal justice in terms of existing international instruments has so far been recognized in the following specific instruments: the Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 A (III)); the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (General Assembly resolution 317 (IV)); the International Convention on the Suppression and Punishment of the Crime of Apartheid (General Assembly resolution 3068 (XXVIII)); the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (General Assembly resolution 3166 (XXVIII), annex); the International Convention against the Taking of Hostages (General Assembly resolution 34/146); the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 3452 (XXX)); the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169); the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, of 14 September 1963 (United Nations, Treaty Series, vol. 704, No. 10106, p. 219); The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, of 16 December 1970 (United Nations, Treaty Series, vol. 860, No. 12325, p. 105); the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, of 23 September 1971 (United Nations, Treaty Series, vol. 974, No. 14118, p. 177); the Single Convention on Narcotic Drugs, 1954, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs of 1954 (United Nations Treaty Series, vol. 976, No. 14151, p. 1); and the Convention on Psychotropic Substances of 1971 (United Nations, Treaty Series, vol. 1019, No. 14956, p. 175).

### Modalities of international co-operation

39. Ways and means of international co-operation in penal matters, such as extradition, various forms of investigative and judicial assistance, including letters and commissions rogatory, service of writs and record of decisions, appearances of witnesses abroad, transfer of proceedings, transfer of foreign prisoners and execution of sentences abroad, including supervision of the conditionally released in other countries, should be made less cumbersome and more effective. In order further to promote the use of such mechanisms in all countries, thus maximizing the effectiveness of international co-operation in the struggle against crime, the United Nations should develop appropriate model instruments for use by interested countries and should contribute to the formulation of comprehensive regional agreements. Furthermore, efforts should be made to strengthen existing arrangements for international co-operation between the various agencies of criminal justice systems in order to combat criminality at the international level.

### International legal standards and legal systems

40. International co-operation in criminal justice should be in accordance with the respective legal systems of the co-operating States and with due regard to human rights and internationally accepted legal standards, which should be further implemented and strengthened.

### Technical co-operation

41. Technical co-operation in various forms should be increased in view of the shortage of technical and human resources in many developing countries, such as trained personnel in all branches of the crime prevention and criminal justice systems, research personnel and centres of study, readily available data and scientific resources, information exchange systems and educational facilities. Accordingly, existing bodies within the United Nations system and Member States with the capability and resources should make available technical assistance to other countries in need, on either a bilateral or a multilateral basis or as a part of broader development programmes and as a form of transfer of technology, in accordance with United Nations principles concerning a new international economic order. Similarly, developing countries might share with developed countries indigenous approaches and experiences that might be useful to them.

### Co-operation among developing countries

42. Technical co-operation among developing countries on a regional and interregional level should be further promoted in order to share relevant common experiences, preserve particular cultural characteristics, strengthen indigenous institutions of social control and increase self-reliance.

### Role of international and regional bodies and organizations

43. International agencies and bodies, including the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders, the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat and other international, intergovernmental and non-governmental organizations enjoying consultative status with the Economic and Social Council and

dealing with crime prevention issues, should, within their mandates, assist States in their struggle against crime and in the implementation of international co-operation in this field.

#### Regional and interregional activities

44. In promoting an international strategy of crime prevention and criminal justice in the context of development, the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders and the Crime Prevention and Criminal Justice Branch should continue further to enhance their functions as useful instruments for the effective implementation of this global approach, while their co-operation with the respective United Nations regional commissions and other relevant regional organizations should be strengthened.

#### Co-ordination among the institutes

45. Co-ordination of activities among the above-mentioned institutes should be fostered by institutionalizing contacts and exchanges of information and experience between them, so as to increase their potential for training, research and technical assistance to interested countries. To the extent appropriate, the specialized agencies and international development institutions and bodies should be closely involved in such activities.

#### Scientific co-operation

46. The United Nations should make more intensive efforts to secure support and co-operation from scientific and professional governmental and non-governmental organizations and institutions that have an established reputation in the field of crime prevention and criminal justice, so as to make greater use of those resources on subregional, regional, interregional and international levels. To that end, the possibility of establishing an international council of scholarly, scientific, research and professional organizations and academic institutions should be explored. Such a council, consisting of selected representatives of the above-mentioned organizations and institutions in various parts of the world, should strengthen international co-operation in this field by furthering the exchange of information and providing technical and scientific assistance to the United Nations and the world community which it serves.

#### United Nations congresses on the prevention of crime and the treatment of offenders

47. The quinquennial United Nations congresses on the prevention of crime and the treatment of offenders are designed to promote an exchange of knowledge and experience between specialists of different States and to strengthen and develop international and regional co-operation in the fight against crime, being a principal forum for that co-operation. States and the United Nations, along with other intergovernmental and non-governmental organizations, should contribute in every way possible to enhancing the effectiveness of the work of these congresses.

C. Draft instruments and resolutions recommended for adoption by the General Assembly

1. United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")

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

Recommends to the General Assembly the adoption of the following draft resolution:

United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")

The General Assembly,

Bearing in mind the Universal Declaration of Human Rights, 7/ the International Covenant on Civil and Political Rights 8/ and the International Covenant on Economic, Social and Cultural Rights, 8/ as well as other international human rights instruments pertaining to the rights of young persons,

Also bearing in mind that 1985 was designated the International Youth Year: Participation, Development, Peace and that the international community has placed importance on the protection and promotion of the rights of the young, as witnessed by the significance attached to the Declaration of the Rights of the Child, 9/

Recalling resolution 4 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Caracas from 25 August to 5 September 1980, 10/ which called for the development of standard minimum rules for the administration of juvenile justice and the care of juveniles, which could serve as a model for Member States,

Recalling also Economic and Social Council decision 1984/153 of 25 May 1984, by which the draft rules were forwarded to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, through the Interregional Preparatory Meeting, held at Beijing from 14 to 18 May 1984, 11/

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7/ General Assembly resolution 217 A (III).

8/ See General Assembly resolution 2200 A (XXI), annex.

9/ General Assembly resolution 1386 (XIV).

10/ See Sixth United Nations Congress ..., chap. I, sect. B.

11/ See "Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic IV: youth, crime and justice" (A/CONF.121/IPM/1).

Recognizing that the young, owing to their early stage of human development, require particular care and assistance with regard to physical, mental and social development, and require legal protection in conditions of peace, freedom, dignity and security,

Considering that existing national legislation, policies and practices may well require review and amendment in view of the standards contained in the rules,

Considering further that, although such standards may seem difficult to achieve at present in view of existing social, economic, cultural, political and legal conditions, they are nevertheless intended to be attainable as a policy minimum,

1. Notes with appreciation the work carried out by the Committee on Crime Prevention and Control, the Secretary-General, the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders and other United Nations institutes in the development of the Standard Minimum Rules for the Administration of Juvenile Justice;
2. Takes note with appreciation of the report of the Secretary-General on the draft Standard Minimum Rules for the Administration of Juvenile Justice; 12/
3. Commends the Interregional Preparatory Meeting held at Beijing for having finalized the text of the rules submitted to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders for consideration and final action;
4. Adopts the United Nations Standard Minimum Rules for the Administration of Juvenile Justice recommended by the Seventh Congress, contained in the annex to the present resolution, and approves the recommendation of the Seventh Congress that the Rules should be known as "the Beijing Rules";
5. Invites Member States to adapt, wherever this is necessary, their national legislation, policies and practices, particularly in training juvenile justice personnel, to the Beijing Rules and to bring the Rules to the attention of relevant authorities and the public in general;
6. Calls upon the Committee on Crime Prevention and Control to formulate measures for the effective implementation of the Beijing Rules, with the assistance of the United Nations institutes on the prevention of crime and the treatment of offenders;
7. Invites Member States to inform the Secretary-General on the implementation of the Beijing Rules and to report regularly to the Committee on Crime Prevention and Control on the results achieved;

8. Requests Member States and the Secretary-General to undertake research and to develop a data base with respect to effective policies and practices in the administration of juvenile justice;
9. Requests the Secretary-General and invites Member States to ensure the widest possible dissemination of the text of the Beijing Rules in all of the official languages of the United Nations, including the intensification of information activities in the field of juvenile justice;
10. Requests the Secretary-General to develop pilot projects on the implementation of the Beijing Rules;
11. Requests the Secretary-General and Member States to provide the necessary resources to ensure the successful implementation of the Beijing Rules, in particular in the areas of recruitment, training and exchange of personnel, research and evaluation, and the development of new alternatives to institutionalization;
12. Requests the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to review the progress made in the implementation of the Beijing Rules and of the recommendations contained in the present resolution, under a separate agenda item on juvenile justice;
13. Urges all relevant organs of the United Nations system, in particular the regional commissions and specialized agencies, the United Nations institutes for the prevention of crime and the treatment of offenders, other intergovernmental organizations and non-governmental organizations to collaborate with the Secretariat and to take the necessary measures to ensure a concerted and sustained effort, within their respective fields of technical competence, to implement the principles contained in the Beijing Rules.

## ANNEX

### United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

#### Part one. General principles

##### 1. Fundamental perspectives

- 1.1 Member States shall seek, in conformity with their respective general interests, to further the well-being of the juvenile and her or his family.
- 1.2 Member States shall endeavour to develop conditions that will ensure for the juvenile a meaningful life in the community, which, during that period in life when she or he is most susceptible to deviant behaviour, will foster a process of personal development and education that is as free from crime and delinquency as possible.
- 1.3 Sufficient attention shall be given to positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other community institutions, for the purpose of

promoting the well-being of the juvenile, with a view to reducing the need for intervention under the law, and of effectively, fairly and humanely dealing with the juvenile in conflict with the law.

- 1.4 Juvenile justice shall be conceived as an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles, thus, at the same time, contributing to the protection of the young and the maintenance of a peaceful order in society.
- 1.5 These Rules shall be implemented in the context of economic, social and cultural conditions prevailing in each Member State.
- 1.6 Juvenile justice services shall be systematically developed and co-ordinated with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes.

#### Commentary

These broad fundamental perspectives refer to comprehensive social policy in general and aim at promoting juvenile welfare to the greatest possible extent, which will minimize the necessity of intervention by the juvenile justice system, and in turn, will reduce the harm that may be caused by any intervention. Such care measures for the young, before the onset of delinquency, are basic policy requisites designed to obviate the need for the application of the Rules.

Rules 1.1 to 1.3 point to the important role that a constructive social policy for juveniles will play, inter alia, in the prevention of juvenile crime and delinquency. Rule 1.4 defines juvenile justice as an integral part of social justice for juveniles, while rule 1.6 refers to the necessity of constantly improving juvenile justice, without falling behind the development of progressive social policy for juveniles in general and bearing in mind the need for consistent improvement of staff services.

Rule 1.5 seeks to take account of existing conditions in Member States which would cause the manner of implementation of particular rules necessarily to be different from the manner adopted in other States.

## 2. Scope of the Rules and definitions used

- 2.1 The following Standard Minimum Rules shall be applied to juvenile offenders impartially, without distinction of any kind, for example as to race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status.
- 2.2 For purposes of these Rules, the following definitions shall be applied by Member States in a manner which is compatible with their respective legal systems and concepts:
  - (a) A juvenile is a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult;

- (b) An offence is any behaviour (act or omission) that is punishable by law under the respective legal systems;
- (c) A juvenile offender is a child or young person who is alleged to have committed or who has been found to have committed an offence.

2.3 Efforts shall be made to establish, in each national jurisdiction, a set of laws, rules and provisions specifically applicable to juvenile offenders and institutions and bodies entrusted with the functions of the administration of juvenile justice and designed:

- (a) To meet the varying needs of juvenile offenders, while protecting their basic rights;
- (b) To meet the needs of society;
- (c) To implement the following rules thoroughly and fairly.

#### Commentary

The Standard Minimum Rules are deliberately formulated so as to be applicable within different legal systems and, at the same time, to set some minimum standards for the handling of juvenile offenders under any definition of a juvenile and under any system of dealing with juvenile offenders. The Rules are always to be applied impartially and without distinction of any kind.

Rule 2.1 therefore stresses the importance of the Rules always being applied impartially and without distinction of any kind. The rule follows the formulation of principle 2 of the Declaration of the Rights of the Child. <sup>13/</sup>

Rule 2.2 defines "juvenile" and "offence" as the components of the notion of the "juvenile offender", who is the main subject of these Standard Minimum Rules (see, however, also rules 3 and 4). It should be noted that age limits will depend on, and are explicitly made dependent on, each respective legal system, thus fully respecting the economic, social, political, cultural and legal systems of Member States. This makes for a wide variety of ages coming under the definition of "juvenile", ranging from 7 years to 18 years or above. Such a variety seems inevitable in view of the different national legal systems and does not diminish the impact of these Standard Minimum Rules.

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<sup>13/</sup> General Assembly resolution 1386 (XIV). See also the Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180, annex); the Declaration of the World Conference to Combat Racism and Racial Discrimination (Report of the World Conference to Combat Racism and Racial Discrimination, Geneva, 14-25 August 1978 (United Nations publication, Sales No. E.79.XIV.2), chap. II); the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (General Assembly resolution 36/55); the Standard Minimum Rules for the Treatment of Prisoners (Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.83.XIV.1), sect. G.29); the Caracas Declaration (General Assembly resolution 35/171, annex); and rule 9.

Rule 2.3 is addressed to the necessity of specific national legislation for the optimal implementation of these Standard Minimum Rules, both legally and practically.

### 3. Extension of the Rules

- 3.1 The relevant provisions of the Rules shall be applied not only to juvenile offenders but also to juveniles who may be proceeded against for any specific behaviour that would not be punishable if committed by an adult.
- 3.2 Efforts shall be made to extend the principles embodied in the Rules to all juveniles who are dealt with in welfare and care proceedings.
- 3.3 Efforts shall also be made to extend the principles embodied in the Rules to young adult offenders.

#### Commentary

Rule 3 extends the protection afforded by the Standard Minimum Rules for the Administration of Juvenile Justice to cover:

(a) The so-called "status offences" prescribed in various national legal systems where the range of behaviour considered to be an offence is wider for juveniles than it is for adults (for example, truancy, school and family disobedience, public drunkenness etc.) (rule 3.1);

(b) Juvenile welfare and care proceedings (rule 3.2);

(c) Proceedings dealing with young adult offenders, depending of course on each given age limit (rule 3.3).

The extension of the Rules to cover these three areas seems to be justified. Rule 3.1 provides minimum guarantees in those fields, and rule 3.2 is considered a desirable step in the direction of more fair, equitable and humane justice for all juveniles in conflict with the law.

### 4. Age of criminal responsibility

- 4.1 In those legal systems recognizing the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity.

#### Commentary

The minimum age of criminal responsibility differs widely owing to history and culture. The modern approach would be to consider whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of her or his individual discernment and understanding, can be held responsible for essentially anti-social behaviour. If the age of criminal responsibility is fixed too low or if there is no lower age limit at all, the notion of responsibility would

become meaningless. In general, there is a close relationship between the notion of responsibility for delinquent or criminal behaviour and other social rights and responsibilities (such as marital status, civil majority etc.).

Efforts should therefore be made to agree on a reasonable lowest age limit that is applicable internationally.

## 5. Aims of juvenile justice

- 5.1 The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence.

### Commentary

Rule 5 refers to two of the most important objectives of juvenile justice. The first objective is the promotion of the well-being of the juvenile. This is the main focus of those legal systems in which juvenile offenders are dealt with by family courts or administrative authorities, but the well-being of the juvenile should also be emphasized in legal systems that follow the criminal court model, thus contributing to the avoidance of merely punitive sanctions. (See also rule 14.)

The second objective is "the principle of proportionality". This principle is well-known as an instrument for curbing punitive sanctions, mostly expressed in terms of just desert in relation to the gravity of the offence. The response to young offenders should be based on the consideration not only of the gravity of the offence but also of personal circumstances. The individual circumstances of the offender (for example social status, family situation, the harm caused by the offence or other factors affecting personal circumstances) should influence the proportionality of the reaction (for example by having regard to the offender's endeavour to indemnify the victim or to her or his willingness to turn to a wholesome and useful life).

By the same token, reactions aiming to ensure the welfare of the young offender may go beyond necessity and therefore infringe upon the fundamental rights of the young individual, as has been observed in some juvenile justice systems. Here, too, the proportionality of the reaction to the circumstances of both the offender and the offence, including the victim, should be safeguarded.

In essence, rule 5 calls for no less and no more than a fair reaction in any given case of juvenile delinquency and crime. The issues combined in the rule may help to stimulate development in both regards: new and innovative types of reactions are as desirable as precautions against any undue widening of the net of formal social control over juveniles.

## 6. Scope of discretion

- 6.1 In view of the varying special needs of juveniles as well as the variety of measures available, appropriate scope for discretion shall be allowed at all stages of proceedings and at the different

levels of juvenile justice administration, including investigation, prosecution, adjudication and the follow-up of dispositions.

- 6.2 Efforts shall be made, however, to ensure sufficient accountability at all stages and levels in the exercise of any such discretion.
- 6.3 Those who exercise discretion shall be specially qualified or trained to exercise it judiciously and in accordance with their functions and mandates.

#### Commentary

Rules 6.1, 6.2 and 6.3 combine several important features of effective, fair and humane juvenile justice administration: the need to permit the exercise of discretionary power at all significant levels of processing so that those who make determinations can take the actions deemed to be most appropriate in each individual case; and the need to provide checks and balances in order to curb any abuses of discretionary power and to safeguard the rights of the young offender. Accountability and professionalism are instruments best apt to curb broad discretion. Thus, professional qualifications and expert training are emphasized here as a valuable means of ensuring the judicious exercise of discretion in matters of juvenile offenders. (See also rules 1.6 and 2.2.) The formulation of specific guidelines on the exercise of discretion and the provision of systems of review, appeal and the like in order to permit scrutiny of decisions and accountability are emphasized in this context. Such mechanisms are not specified here, as they do not easily lend themselves to incorporation into international standard minimum rules, which cannot possibly cover all differences in justice systems.

### 7. Rights of juveniles

- 7.1 Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of proceedings.

#### Commentary

Rule 7.1 emphasizes some important points that represent essential elements for a fair and just trial and that are internationally recognized in existing human rights instruments. (See also rule 14.) The presumption of innocence, for instance, is also to be found in article 11 of the Universal Declaration of Human Rights 14/ and in article 14, paragraph 2, of the International Covenant on Civil and Political Rights. 15/

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14/ See General Assembly resolution 217 A (III).

15/ See General Assembly resolution 2200 A (XXI), annex.

Rules 14 seq. of these Standard Minimum Rules specify issues that are important for proceedings in juvenile cases, in particular, while rule 7.1 affirms the most basic procedural safeguards in a general way.

#### 8. Protection of privacy

- 8.1 The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling.
- 8.2 In principle, no information that may lead to the identification of a juvenile offender shall be published.

#### Commentary

Rule 8 stresses the importance of the protection of the juvenile's right to privacy. Young persons are particularly susceptible to stigmatization. Criminological research into labelling processes has provided evidence of the detrimental effects (of different kinds) resulting from the permanent identification of young persons as "delinquent" or "criminal".

Rule 8 also stresses the importance of protecting the juvenile from the adverse effects that may result from the publication in the mass media of information about the case (for example, the names of young offenders, alleged or convicted). The interest of the individual should be protected and upheld, at least in principle. (The general contents of rule 8 are further specified in rule 21.)

#### 9. Saving clause

- 9.1 Nothing in these Rules shall be interpreted as precluding the application of the Standard Minimum Rules for the Treatment of Prisoners 16/ adopted by the United Nations and other human rights instruments and standards recognized by the international community that relate to the care and protection of the young.

#### Commentary

Rule 9 is meant to avoid any misunderstanding in interpreting and implementing the present Rules in conformity with principles contained in relevant existing or emerging international human rights instruments and standards - such as the Universal Declaration of Human Rights; 14/ the International Covenant on Economic, Social and Cultural Rights 15/ and the International Covenant on Civil and Political Rights; 15/ and the Declaration of the Rights of the Child 13/ and the draft convention on the rights of the child. 17/ It should be understood that the application of the present Rules

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16/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.83.XIV.1).

17/ See Economic and Social Council resolution 1985/42.

is without prejudice to any such international instruments which may contain provisions of wider application. 16/ (See also rule 27.)

Part two. Investigation and prosecution

10. Initial contact

- 10.1 Upon the apprehension of a juvenile, her or his parents or guardian shall be immediately notified of such apprehension, and, where such immediate notification is not possible, the parents or guardian shall be notified within the shortest possible time thereafter.
- 10.2 A judge or other competent official or body shall, without delay, consider the issue of release.
- 10.3 Contacts between the law enforcement agencies and a juvenile offender shall be managed in such a way as to respect the legal status of the juvenile, promote the well-being of the juvenile and avoid harm to her or him, with due regard to the circumstances of the case.

Commentary

Rule 10.1 is in principle contained in rule 92 of the Standard Minimum Rules for the Treatment of Prisoners. 18/

The question of release (rule 10.2) shall be considered without delay by a judge or other competent official. The latter refers to any person or institution in the broadest sense of the term, including community boards or police authorities having power to release an arrested person. (See also the International Covenant on Civil and Political Rights, article 9, paragraph 3.)

Rule 10.3 deals with some fundamental aspects of the procedures and behaviour on the part of the police and other law enforcement officials in cases of juvenile crime. To "avoid harm" admittedly is flexible wording and covers many features of possible interaction (for example, the use of harsh

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18/ The Standard Minimum Rules for the Treatment of Prisoners and related recommendations were adopted in 1955 at Geneva (see First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report prepared by the Secretariat (United Nations publication, Sales No. 1956.IV.4)). In its resolution 663 C (XXIV) of 31 July 1957, the Economic and Social Council approved the Standard Minimum Rules and endorsed, inter alia, the recommendations on the selection and training of personnel for penal and correctional institutions and on open penal and correctional institutions. The Council recommended that Governments should give favourable consideration to the adoption and application of the Standard Minimum Rules and should take the other two groups of recommendations as fully as possible into account in the administration of penal and correctional institutions. The inclusion of a new rule, rule 95, was authorized by the Economic and Social Council in its resolution 2076 (LXII) of 13 May 1977. The complete text of the Standard Minimum Rules for the Treatment of Prisoners is contained in Human Rights: A Compilation of International Instruments ..., sect. G.29.

language, physical violence or exposure to the environment). Involvement in juvenile justice processes in itself can be "harmful" to juveniles; the term "avoid harm" should be broadly interpreted, therefore, as doing the least harm possible to the juvenile in the first instance, as well as any additional or undue harm. This is especially important in the initial contact with law enforcement agencies, which might profoundly influence the juvenile's attitude towards the State and society. Moreover, the success of any further intervention is largely dependent on such initial contacts. Compassion and kind firmness are important in these situations.

## 11. Diversion

- 11.1 Consideration shall be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority, referred to in rule 14.1 below.
- 11.2 The police, the prosecution or other agencies dealing with juvenile cases shall be empowered to dispose of such cases, at their discretion, without recourse to formal hearings, in accordance with the criteria laid down for that purpose in the respective legal system and also in accordance with the principles contained in these Rules.
- 11.3 Any diversion involving referral to appropriate community or other services shall require the consent of the juvenile, or her or his parents or guardian, provided that such decision to refer a case shall be subject to review by a competent authority, upon application.
- 11.4 In order to facilitate the discretionary disposition of juvenile cases, efforts shall be made to provide for community programmes, such as temporary supervision and guidance, restitution, and compensation of victims.

### Commentary

Diversion, involving removal from criminal justice processing and, frequently, redirection to community support services, is commonly practised on a formal and informal basis in many legal systems. This practice serves to hinder the negative effects of subsequent proceedings in juvenile justice administration (for example the stigma of conviction and sentence). In many cases, non-intervention would be the best response. Thus, diversion at the outset and without referral to alternative (social) services may be the optimal response. This is especially the case where the offence is of a non-serious nature and where the family, the school or other informal social control institutions have already reacted, or are likely to react, in an appropriate and constructive manner.

As stated in rule 11.2, diversion may be used at any point of decision-making - by the police, the prosecution or other agencies such as the courts, tribunals, boards or councils. It may be exercised by one authority or several or all authorities, according to the rules and policies of the respective systems and in line with the present Rules. It need not

necessarily be limited to petty cases, thus rendering diversion an important instrument.

Rule 11.3 stresses the important requirement of securing the consent of the young offender (or the parent or guardian) to the recommended diversionary measure(s). (Diversion to community service without such consent would contradict the Convention concerning the Abolition of Forced Labour. <sup>19/</sup>) However, this consent should not be left unchallengeable, since it might sometimes be given out of sheer desperation on the part of the juvenile. The rule underlines that care should be taken to minimize the potential for coercion and intimidation at all levels in the diversion process. Juveniles should not feel pressured (for example in order to avoid court appearance) or be pressured into consenting to diversion programmes. Thus, it is advocated that provision should be made for an objective appraisal of the appropriateness of dispositions involving young offenders by a "competent authority upon application". (The "competent authority" may be different from that referred to in rule 14.)

Rule 11.4 recommends the provision of viable alternatives to juvenile justice processing in the form of community-based diversion. Programmes that involve settlement by victim restitution and those that seek to avoid future conflict with the law through temporary supervision and guidance are especially commended. The merits of individual cases would make diversion appropriate, even when more serious offences have been committed (for example first offence, the act having been committed under peer pressure etc.).

## 12. Specialization within the police

12.1 In order to best fulfil their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose.

### Commentary

Rule 12 draws attention to the need for specialized training for all law enforcement officials who are involved in the administration of juvenile justice. As police are the first point of contact with the juvenile justice system, it is most important that they act in an informed and appropriate manner.

While the relationship between urbanization and crime is clearly complex, an increase in juvenile crime has been associated with the growth of large cities, particularly with rapid and unplanned growth. Specialized police units would therefore be indispensable, not only in the interest of

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<sup>19/</sup> Convention No. 105, adopted on 25 June 1957 by the General Conference of the International Labour Organisation at its fortieth session. With regard to the text of the Convention, see footnote 16.

implementing specific principles contained in the present instrument (such as rule 1.6), but more generally for improving the prevention and control of juvenile crime and the handling of juvenile offenders.

### 13. Detention pending trial

- 13.1 Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.
- 13.2 Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.
- 13.3 Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners 16/ adopted by the United Nations.
- 13.4 Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.
- 13.5 While in custody, juveniles shall receive care, protection and all necessary individual assistance - social, educational, vocational, psychological, medical and physical - that they may require in view of their age, sex and personality.

#### Commentary

The danger to juveniles of "criminal contamination" while in detention pending trial must not be underestimated. It is therefore important to stress the need for alternative measures. By doing so, rule 13.1 encourages the devising of new and innovative measures to avoid such detention in the interest of the well-being of the juvenile.

Juveniles under detention pending trial are entitled to all the rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners as well as the International Covenant on Civil and Political Rights, 15/ especially article 9 and article 10, paragraphs 2 (b) and 3.

Rule 13.4 does not prevent States from taking other measures against the negative influences of adult offenders which are at least as effective as the measures mentioned in the rule.

Different forms of assistance that may become necessary have been enumerated to draw attention to the broad range of particular needs of young detainees to be addressed (for example, females or males, drug addicts, alcoholics, mentally ill juveniles, young persons suffering from the trauma, for example, of arrest etc.).

Varying physical and psychological characteristics of young detainees may warrant classification measures by which some are kept separate while in detention pending trial, thus contributing to the avoidance of victimization and rendering more appropriate assistance.

The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in its resolution 4 20/ on juvenile justice standards specified that the Rules, inter alia, should reflect the basic principle that pre-trial detention should be used only as a last resort, that no minors should be held in a facility where they are vulnerable to the negative influences of adult detainees and that account should always be taken of the needs particular to their stage of development.

### Part three. Adjudication and disposition

#### 14. Competent authority to adjudicate

- 14.1 Where the case of a juvenile offender has not been diverted (under rule 11), she or he shall be dealt with by the competent authority (court, tribunal, board, council etc.) according to the principles of a fair and just trial.
- 14.2 The proceedings shall be conducive to the best interests of the juvenile and shall be conducted in an atmosphere of understanding, which shall allow the juvenile to participate therein and to express herself or himself freely.

#### Commentary

It is difficult to formulate a definition of the competent body or person that would universally describe an adjudicating authority. "Competent authority" is meant to include those who preside over courts or tribunals (composed of a single judge or of several members), including professional and lay magistrates as well as administrative boards (for example, the Scottish and Scandinavian systems) or other more informal community and conflict resolution agencies of an adjudicatory nature.

The procedure for dealing with juvenile offenders shall in any case follow the minimum standards that are applied almost universally for any criminal defendant under the procedure known as "due process of law". In accordance with due process, a "fair and just trial" includes such basic safeguards as the presumption of innocence, the presentation and examination of witnesses, the common legal defences, the right to remain silent, the right to have the last word in a hearing, the right to appeal etc. (See also rule 7.1.)

#### 15. Legal counsel, parents and guardians

- 15.1 Throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.
- 15.2 The parents or the guardian shall be entitled to participate in the proceedings and may be required by the competent authority to

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20/ See Sixth United Nations Congress ..., chap. I, sect. B.

attend them in the interest of the juvenile. They may, however, be denied participation by the competent authority if there are reasons to assume that such exclusion is necessary in the interest of the juvenile.

#### Commentary

Rule 15.1 uses terminology similar to that found in rule 93 of the Standard Minimum Rules for the Treatment of Prisoners. <sup>16/</sup> Whereas legal counsel and free legal aid are needed to assure the juvenile legal assistance, the right of the parents or guardian to participate as stated in rule 15.2 should be viewed as general psychological and emotional assistance to the juvenile - a function extending throughout the procedure.

The competent authority's search for an adequate disposition of the case may profit, in particular, from the co-operation of the legal representatives of the juvenile (or, for that matter, some other personal assistant who the juvenile can and does really trust). Such concern can be thwarted if the presence of parents or guardians at the hearings plays a negative role, for instance, if they display a hostile attitude towards the juvenile; hence, the possibility of their exclusion must be provided for.

### 16. Social inquiry reports

- 16.1 In all cases except those involving minor offences, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is living or the conditions under which the offence has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority.

#### Commentary

Social inquiry reports (social reports or pre-sentence reports) are an indispensable aid in most legal proceedings involving juveniles. The competent authority should be informed of relevant facts about the juvenile, such as social and family background, school career, educational experiences etc. For this purpose, some jurisdictions use special social services or personnel attached to the court or board. Other personnel, including probation officers, may serve the same function. The rule therefore requires that adequate social services should be available to deliver social inquiry reports of a qualified nature.

### 17. Guiding principles in adjudication and disposition

- 17.1 The disposition of the competent authority shall be guided by the following principles:
- (a) The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile as well as to the needs of the society;

- (b) Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum;
  - (c) Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response;
  - (d) The well-being of the juvenile shall be the guiding factor in the consideration of her or his case.
- 17.2 Capital punishment shall not be imposed for any crime committed by juveniles.
- 17.3 Juveniles shall not be subject to corporal punishment.
- 17.4 The competent authority shall have the power to discontinue the proceedings at any time.

#### Commentary

The main difficulty in formulating guidelines for the adjudication of young persons stems from the fact that there are unresolved conflicts of a philosophical nature, such as the following:

- (a) Rehabilitation versus just desert;
- (b) Assistance versus repression and punishment;
- (c) Reaction according to the singular merits of an individual case versus reaction according to the protection of society in general;
- (d) General deterrence versus individual incapacitation.

The conflict between these approaches is more pronounced in juvenile cases than in adult cases. With the variety of causes and reactions characterizing juvenile cases, these alternatives become intricately interwoven.

It is not the function of the Standard Minimum Rules for the Administration of Juvenile Justice to prescribe which approach is to be followed, but rather to identify one that is most closely in consonance with internationally accepted principles. Therefore the essential elements as laid down in rule 17.1, in particular in subparagraphs (a) and (c), are mainly to be understood as practical guidelines that should ensure a common starting point; if heeded by the concerned authorities (see also rule 5), they could contribute considerably to ensuring that the fundamental rights of juvenile offenders are protected, especially the fundamental rights of personal development and education.

Rule 17.1 (b) implies that strictly punitive approaches are not appropriate. Whereas in adult cases, and possibly also in cases of severe offences by juveniles, just desert and retributive sanctions might be

considered to have some merit, in juvenile cases such considerations should always be outweighed by the interest of safeguarding the well-being and the future of the young person.

In line with resolution 8 of the Sixth United Nations Congress, 20/ it encourages the use of alternatives to institutionalization to the maximum extent possible, bearing in mind the need to respond to the specific requirements of the young. Thus, full use should be made of the range of existing alternative sanctions and new alternative sanctions should be developed, bearing the public safety in mind. Probation should be granted to the greatest possible extent via suspended sentences, conditional sentences, board orders and other dispositions.

Rule 17.1 (c) corresponds to one of the guiding principles in resolution 4 of the Sixth Congress 20/ which aims at avoiding incarceration in the case of juveniles unless there is no other appropriate response that will protect the public safety.

The provision prohibiting capital punishment in rule 17.2 is in accordance with article 6, paragraph 5, of the International Covenant on Civil and Political Rights. 15/

The provision against corporal punishment is in line with article 7 of the International Covenant on Civil and Political Rights 15/ and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 21/ as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 22/ and the draft convention on the rights of the child. 17/

The power to discontinue the proceedings at any time (rule 17.4) is a characteristic inherent in the handling of juvenile offenders as opposed to adults. At any time, circumstances may become known to the competent authority which would make a complete cessation of the intervention appear to be the best disposition of the case.

## 18. Various disposition measures

18.1 A large variety of disposition measures shall be made available to the competent authority, allowing for flexibility so as to avoid institutionalization to the greatest extent possible. Such measures, some of which may be combined, include:

- (a) Care, guidance and supervision orders;
- (b) Probation;
- (c) Community service orders;

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21/ General Assembly resolution 3452 (XXX), annex.

22/ General Assembly resolution 39/46, annex.

- (d) Financial penalties, compensation and restitution;
- (e) Intermediate treatment and other treatment orders;
- (f) Orders to participate in group counselling and similar activities;
- (g) Orders concerning foster care, living communities or other educational settings;
- (h) Other relevant orders.

18.2 No juvenile shall be removed from parental supervision, whether partly or entirely, unless the circumstances of her or his case make this necessary.

#### Commentary

Rule 18.1 attempts to enumerate some of the important reactions and sanctions that have been practised and proved successful thus far, in different legal systems. On the whole they represent promising options that deserve replication and further development. The rule does not enumerate staffing requirements because of possible shortages of adequate staff in some regions; in those regions measures requiring less staff may be tried or developed.

The examples given in rule 18.1 have in common, above all, a reliance on and an appeal to the community for the effective implementation of alternative dispositions. Community-based correction is a traditional measure that has taken on many aspects. On that basis, relevant authorities should be encouraged to offer community-based services.

Rule 18.2 points to the importance of the family which, according to article 10, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, is "the natural and fundamental group unit of society".<sup>15/</sup> Within the family, the parents have not only the right but also the responsibility to care for and supervise their children. Rule 18.2, therefore, requires that the separation of children from their parents is a measure of last resort. It may be resorted to only when the facts of the case clearly warrant this grave step (for example, child abuse).

#### 19. Least possible use of institutionalization

19.1 The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.

#### Commentary

Progressive criminology advocates the use of non-institutional over institutional treatment. Little or no difference has been found in terms of the success of institutionalization as compared to non-institutionalization. The many adverse influences on an individual that seem unavoidable within any institutional setting evidently cannot be outbalanced by treatment efforts. This is especially the case for juveniles, who are vulnerable to negative

influences. Moreover, the negative effects, not only of loss of liberty but also of separation from the usual social environment, are certainly more acute for juveniles than for adults because of their early stage of development.

Rule 19 aims at restricting institutionalization in two regards: in quantity ("last resort") and in time ("minimum necessary period"). Rule 19 reflects one of the basic guiding principles of resolution 4 of the Sixth United Nations Congress: 20/ a juvenile offender should not be incarcerated unless there is no other appropriate response. The rule, therefore, makes the appeal that if a juvenile must be institutionalized, the loss of liberty should be restricted to the least possible degree, with special institutional arrangements for confinement and bearing in mind the differences in kinds of offenders, offences and institutions. In fact, priority should be given to "open" over "closed" institutions. Furthermore, any facility should be of a correctional or educational rather than of a prison type.

## 20. Avoidance of unnecessary delay

20.1 Each case shall from the outset be handled expeditiously, without any unnecessary delay.

### Commentary

The speedy conduct of formal procedures in juvenile cases is a paramount concern. Otherwise whatever good may be achieved by the procedure and the disposition is at risk. As time passes, the juvenile will find it increasingly difficult, if not impossible, to relate the procedure and disposition to the offence, both intellectually and psychologically.

## 21. Records

21.1 Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorized persons.

21.2 Records of juvenile offenders shall not be used in adult proceedings in subsequent cases involving the same offender.

### Commentary

The rule attempts to achieve a balance between conflicting interests connected with records or files: those of the police, prosecution and other authorities in improving control versus the interests of the juvenile offender. (See also rule 8.) "Other duly authorized persons" would generally include, among others, researchers.

## 22. Need for professionalism and training

22.1 Professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to

establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.

- 22.2 Juvenile justice personnel shall reflect the diversity of juveniles who come into contact with the juvenile justice system. Efforts shall be made to ensure the fair representation of women and minorities in juvenile justice agencies.

#### Commentary

The authorities competent for disposition may be persons with very different backgrounds (magistrates in the United Kingdom of Great Britain and Northern Ireland and in regions influenced by the common law system; legally trained judges in countries using Roman law and in regions influenced by them; and elsewhere elected or appointed laymen or jurists, members of community-based boards etc.). For all these authorities, a minimum training in law, sociology, psychology, criminology and behavioural sciences would be required. This is considered as important as the organizational specialization and independence of the competent authority.

For social workers and probation officers, it might not be feasible to require professional specialization as a prerequisite for taking over any function dealing with juvenile offenders. Thus, professional on-the-job instruction would be minimum qualifications.

Professional qualifications are an essential element in ensuring the impartial and effective administration of juvenile justice. Accordingly, it is necessary to improve the recruitment, advancement and professional training of personnel and to provide them with the necessary means to enable them to properly fulfil their functions.

All political, social, sexual, racial, religious, cultural or any other kind of discrimination in the selection, appointment and advancement of juvenile justice personnel should be avoided in order to achieve impartiality in the administration of juvenile justice. This was recommended by the Sixth United Nations Congress. Furthermore, the Sixth Congress called on Member States to ensure the fair and equal treatment of women as criminal justice personnel and recommended that special measures should be taken to recruit, train and facilitate the advancement of female personnel in juvenile justice administration. 20/

#### Part four. Non-institutional treatment

##### 23. Effective implementation of disposition

- 23.1 Appropriate provisions shall be made for the implementation of orders of the competent authority, as referred to in rule 14.1 above, by that authority itself or by some other authority as circumstances may require.
- 23.2 Such provisions shall include the power to modify the orders as the competent authority may deem necessary from time to time, provided that such modification shall be determined in accordance with the principles contained in these Rules.

## Commentary

Disposition in juvenile cases, more so than in adult cases, tends to influence the offender's life for a long period of time. Thus, it is important that the competent authority or an independent body (parole board, probation office, youth welfare institutions or others) with qualifications equal to those of the competent authority that originally disposed of the case should monitor the implementation of the disposition. In some countries a juge d'exécution des peines has been installed for this purpose.

The composition, powers and functions of the authority must be flexible; they are described in general terms in rule 23 in order to ensure wide acceptability.

### 24. Provision of needed assistance

- 24.1 Efforts shall be made to provide juveniles, at all stages of the proceedings, with necessary assistance such as lodging, education or vocational training, employment or any other assistance, helpful and practical, in order to facilitate the rehabilitative process.

## Commentary

The promotion of the well-being of the juvenile is of paramount consideration. Thus, rule 24 emphasizes the importance of providing requisite facilities, services and other necessary assistance as may further the best interests of the juvenile throughout the rehabilitative process.

### 25. Mobilization of volunteers and other community services

- 25.1 Volunteers, voluntary organizations, local institutions and other community resources shall be called upon to contribute effectively to the rehabilitation of the juvenile in a community setting and, as far as possible, within the family unit.

## Commentary

This rule reflects the need for a rehabilitative orientation of all work with juvenile offenders. Co-operation with the community is indispensable if the directives of the competent authority are to be carried out effectively. Volunteers and voluntary services, in particular, have proved to be valuable resources but are at present underutilized. In some instances, the co-operation of ex-offenders (including ex-addicts) can be of considerable assistance.

Rule 25 emanates from the principles laid down in rules 1.1 to 1.6 and follows the relevant provisions of the International Covenant on Civil and Political Rights. 15/

Part five. Institutional treatment

26. Objectives of institutional treatment

- 26.1 The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.
- 26.2 Juveniles in institutions shall receive care, protection and all necessary assistance - social, educational, vocational, psychological, medical and physical - that they may require because of their age, sex and personality and in the interest of their wholesome development.
- 26.3 Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.
- 26.4 Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.
- 26.5 In the interest and well-being of the institutionalized juvenile, the parents or guardians shall have a right of access.
- 26.6 Inter-ministerial and inter-departmental co-operation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalized juveniles, with a view to ensuring that they do not leave the institution at an educational disadvantage.

Commentary

The objectives of institutional treatment as stipulated in rules 26.1 and 26.2 would be acceptable to any system and culture. However, they have not yet been attained everywhere, and much more has to be done in this respect.

Medical and psychological assistance, in particular, are extremely important for institutionalized drug addicts, violent and mentally ill young persons.

The avoidance of negative influences through adult offenders and the safeguarding of the well-being of juveniles in an institutional setting, as stipulated in rule 26.3, are in line with one of the basic guiding principles of the Rules, as set out by the Sixth Congress in its resolution 4. 20/ The rule does not prevent States from taking other measures against the negative influences of adult offenders, which are at least as effective as the measures mentioned in the rule. (See also rule 13.4.)

Rule 26.4 addresses the fact that female offenders normally receive less attention than their male counterparts, as pointed out by the Sixth Congress. In particular, resolution 9 of the Sixth Congress 20/ calls for the fair

treatment of female offenders at every stage of criminal justice processes and for special attention to their particular problems and needs while in custody. Moreover, this rule should also be considered in the light of the Caracas Declaration of the Sixth Congress, which, inter alia, calls for equal treatment in criminal justice administration, 23/ and against the background of the Declaration on the Elimination of Discrimination against Women 24/ and the Convention on the Elimination of All Forms of Discrimination against Women. 25/

The right of access (rule 26.5) follows from the provisions of rules 7.1, 10.1, 15.2 and 18.2. Inter-ministerial and inter-departmental co-operation (rule 26.6) are of particular importance in the interest of generally enhancing the quality of institutional treatment and training.

27. Application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations

- 27.1 The Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.
- 27.2 Efforts shall be made to implement the relevant principles laid down in the Standard Minimum Rules for the Treatment of Prisoners to the largest possible extent so as to meet the varying needs of juveniles specific to their age, sex and personality.

Commentary

The Standard Minimum Rules for the Treatment of Prisoners were among the first instruments of this kind to be promulgated by the United Nations. It is generally agreed that they have had a world-wide impact. Although there are still countries where implementation is more an aspiration than a fact, those Standard Minimum Rules continue to be an important influence in the humane and equitable administration of correctional institutions.

Some essential protections covering juvenile offenders in institutions are contained in the Standard Minimum Rules for the Treatment of Prisoners (accommodation, architecture, bedding, clothing, complaints and requests, contact with the outside world, food, medical care, religious service, separation of ages, staffing, work etc.) as are provisions concerning punishment and discipline, and restraint for dangerous offenders. It would not be appropriate to modify those Standard Minimum Rules according to the particular characteristics of institutions for juvenile offenders within the scope of the Standard Minimum Rules for the Administration of Juvenile Justice.

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23/ See General Assembly resolution 35/171, annex, para. 1.6.

24/ General Assembly resolution 2263 (XXII).

25/ General Assembly resolution 34/180, annex.

Rule 27 focuses on the necessary requirements for juveniles in institutions (rule 27.1) as well as on the varying needs specific to their age, sex and personality (rule 27.2). Thus, the objectives and content of the rule interrelates to the relevant provisions of the Standard Minimum Rules for the Treatment of Prisoners.

## 28. Frequent and early recourse to conditional release

- 28.1 Conditional release from an institution shall be used by the appropriate authority to the greatest possible extent, and shall be granted at the earliest possible time.
- 28.2 Juveniles released conditionally from an institution shall be assisted and supervised by an appropriate authority and shall receive full support by the community.

### Commentary

The power to order conditional release may rest with the competent authority, as mentioned in rule 14.1, or with some other authority. In view of this, it is adequate to refer here to the "appropriate" rather than to the "competent" authority.

Circumstances permitting, conditional release shall be preferred to serving a full sentence. Upon evidence of satisfactory progress towards rehabilitation, even offenders who had been deemed dangerous at the time of their institutionalization can be conditionally released whenever feasible. Like probation, such release may be conditional on the satisfactory fulfilment of the requirements specified by the relevant authorities for a period of time established in the decision, for example, relating to "good behaviour" of the offender, attendance in community programmes, residence in half-way houses etc.

In the case of offenders conditionally released from an institution, assistance and supervision by a probation or other officer (particularly where probation has not yet been adopted) should be provided and community support should be encouraged.

## 29. Semi-institutional arrangements

- 29.1 Efforts shall be made to provide semi-institutional arrangements, such as half-way houses, educational homes, day-time training centres and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

### Commentary

The importance of care following a period of institutionalization should not be underestimated. This rule emphasizes the necessity of forming a net of semi-institutional arrangements.

This rule also emphasizes the need for a diverse range of facilities and services designed to meet the different needs of young offenders re-entering

the community and to provide guidance and structural support as an important step towards successful reintegration into society.

Part six. Research, planning, policy formulation and evaluation

30. Research as a basis for planning, policy formulation and evaluation

- 30.1 Efforts shall be made to organize and promote necessary research as a basis for effective planning and policy formulation.
- 30.2 Efforts shall be made to review and appraise periodically the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody.
- 30.3 Efforts shall be made to establish a regular evaluative research mechanism built into the system of juvenile justice administration and to collect and analyse relevant data and information for appropriate assessment and future improvement and reform of the administration.
- 30.4 The delivery of services in juvenile justice administration shall be systematically planned and implemented as an integral part of national development efforts.

Commentary

The utilization of research as a basis for an informed juvenile justice policy is widely acknowledged as an important mechanism for keeping practices abreast of advances in knowledge and the continuing development and improvement of the juvenile justice system. The mutual feedback between research and policy is especially important in juvenile justice. With rapid and often drastic changes in the life-styles of the young and in the forms and dimensions of juvenile crime, the societal and justice responses to juvenile crime and delinquency quickly become outmoded and inadequate.

Rule 30 thus establishes standards for integrating research into the process of policy formulation and application in juvenile justice administration. The rule draws particular attention to the need for regular review and evaluation of existing programmes and measures and for planning within the broader context of overall development objectives.

A constant appraisal of the needs of juveniles, as well as the trends and problems of delinquency, is a prerequisite for improving the methods of formulating appropriate policies and establishing adequate interventions, at both formal and informal levels. In this context, research by independent persons and bodies should be facilitated by responsible agencies, and it may be valuable to obtain and to take into account the views of juveniles themselves, not only those who come into contact with the system.

The process of planning must particularly emphasize a more effective and equitable system for the delivery of necessary services. Towards that end, there should be a comprehensive and regular assessment of the wide-ranging,

particular needs and problems of juveniles and an identification of clear-cut priorities. In that connection, there should also be a co-ordination in the use of existing resources, including alternatives and community support that would be suitable in setting up specific procedures designed to implement and monitor established programmes.

2. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

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

Recognizing the need for more effective measures at the international, regional and national levels on behalf of victims of crime and victims of abuse of power,

Resolved to promote progress by all States in their efforts to respect and to secure for the victims of crime and abuse of power the rights due to them,

Recommends that the General Assembly should adopt the following draft resolution and draft Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power:

The General Assembly,

Recalling that the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders recommended that the United Nations should continue its present work on the development of guidelines and standards regarding abuse of economic and political power, 26/

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

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

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

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

3. Adopts the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, annexed to the present resolution, which is designed to assist Governments and the international community in their efforts to secure justice and assistance for victims of crime and victims of abuse of power;

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26/ See Sixth United Nations Congress ..., chap. I, sect. C.

4. Calls upon Member States to take the necessary steps to give effect to the provisions contained in the Declaration and, in order to curtail victimization as referred to hereinafter, endeavour:

(a) To implement social, health, including mental health, educational, economic and specific crime prevention policies to reduce victimization and encourage assistance to victims in distress;

(b) To promote community efforts and public participation in crime prevention;

(c) To review periodically their existing legislation and practices in order to ensure responsiveness to changing circumstances, and to enact and enforce legislation proscribing acts that violate internationally recognized norms relating to human rights, corporate conduct, and other abuses of power;

(d) To establish and strengthen the means of detecting, prosecuting and sentencing those guilty of crimes;

(e) To promote disclosure of relevant information to expose official and corporate conduct to public scrutiny, and other ways of increasing responsiveness to public concerns;

(f) To promote the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, medical, social service and military personnel, as well as the staff of economic enterprises;

(g) To prohibit practices and procedures conducive to abuse, such as secret places of detention and incommunicado detention;

(h) To co-operate with other States, through mutual judicial and administrative assistance, in such matters as the detection and pursuit of offenders, their extradition and the seizure of their assets, to be used for restitution to the victims;

5. Recommends that, at the international and regional levels, all appropriate measures should be taken:

(a) To promote training activities designed to foster adherence to United Nations standards and norms and to curtail possible abuses;

(b) To sponsor collaborative action-research on ways in which victimization can be reduced and victims aided, and to promote information exchanges on the most effective means of so doing;

(c) To render direct aid to requesting Governments designed to help them curtail victimization and alleviate the plight of victims;

(d) To develop ways and means of providing recourse for victims where national channels may be insufficient;

6. Requests the Secretary-General to invite Member States to report periodically to the General Assembly on the implementation of the Declaration, as well as on measures taken by them to this effect;

7. Also requests the Secretary-General to make use of the opportunities, which all relevant bodies and organizations within the United Nations system offer, to assist Member States, whenever necessary, in improving ways and means of protecting victims both at the national level and through international co-operation;

8. Further requests the Secretary-General to promote the objectives of the Declaration, in particular by ensuring its widest possible dissemination;

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

## ANNEX

### Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

#### A. Victims of crime

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

#### Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

#### Restitution

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

### Compensation

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

### Assistance

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.

16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

### B. Victims of abuse of power

18. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

20. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.

21. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and

enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.

3. Development of standards for the prevention of juvenile delinquency

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

Recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Recalling resolution 4 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Caracas from 25 August to 5 September 1980, 27/ which called for the elaboration of a set of standard minimum rules for the administration of juvenile justice and for the care of juveniles,

Noting that the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) 28/ are limited to the administration of juvenile justice and the assurance of legal guarantees in respect of young persons in conflict with the law,

Mindful of the need to develop national, regional and international strategies for the prevention of delinquency among the young,

Recognizing that the prevention of juvenile delinquency includes measures for the protection of juveniles who are abandoned, neglected, abused and in marginal circumstances and, in general, those who are at social risk,

Recognizing further the existence of a large number of young persons who are not in conflict with the law but who are at social risk,

Acknowledging that one of the basic aims of the prevention of juvenile delinquency is the provision of requisite assistance and a range of opportunities to meet the varying needs of the young, especially those who are most likely to commit crime or to be exposed to crime, and to serve as a supportive framework to safeguard their proper development,

1. Takes note with appreciation of the work undertaken by the United Nations institutes for the prevention of crime and the treatment of offenders and the regional commissions in the field of crime prevention;

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27/ Ibid., sect. B.

28/ See sect. C.1 above.

2. Also takes note with appreciation of the working paper prepared by the Secretariat on youth, crime and justice; 29/

3. Endorses the recommendations contained in the report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Beijing from 14 to 18 May 1984; 30/

4. Requests the Secretary-General and Member States to take the necessary steps to establish joint programmes in the field of juvenile justice and the prevention of juvenile delinquency with the United Nations Social Defence Research Institute, the United Nations regional institutes for the prevention of crime and the treatment of offenders, the Arab Security Studies and Training Centre at Riyadh and other national and regional institutes, and with the assistance of regional commissions and national correspondents, which would include, inter alia, the following activities:

(a) To study the situation of juveniles at social risk and to examine the relevant policies and practices of prevention within the context of socio-economic development;

(b) To intensify efforts in training, research and advisory services for the prevention of juvenile delinquency;

5. Invites Member States to adopt distinct measures and systems appropriate to the interest of juveniles at social risk;

6. Calls upon the Economic and Social Council to request the Committee on Crime Prevention and Control, with the assistance of the United Nations institutes for the prevention of crime and the treatment of offenders, regional commissions and specialized agencies, to develop standards for the prevention of juvenile delinquency, which would assist Member States in formulating and implementing specialized programmes and policies, emphasizing assistance and care and the active involvement of the community, and to report to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the progress achieved in the development of the proposed standards, for review and final action;

7. Requests that the prevention of delinquency among the young should be regularly considered by the Committee on Crime Prevention and Control and that it should be considered by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, under a separate agenda item;

8. Urges all relevant entities within the United Nations system to collaborate with the Secretary-General in taking appropriate measures to ensure the implementation of the present resolution.

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29/ A/CONF.121/7.

30/ A/CONF.121/IPM.1, sect. II.

4. Domestic violence

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

Recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Recalling Economic and Social Council resolution 1984/14 of 24 May 1984 on violence in the family,

Recalling also resolution 9 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which called for the fair treatment of women by the criminal justice system, 31/

Bearing in mind the recommendations made on the subject of domestic violence by the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held at Nairobi from 15 to 26 July 1985, 32/

Having regard to the Declaration on the Rights of the Child, 33/ in particular to principle 9 concerning the protection of the child against exploitation, neglect and cruelty, and the Convention on the Elimination of All Forms of Discrimination against Women, 34/

Mindful of the important role of the family in ensuring the proper development of the young and their integration into the mainstream of society, and in preventing delinquency,

Mindful further of the social aspects of domestic violence and of the great importance of emphasizing and developing appropriate methods of conflict resolution between the parties involved,

Recognizing that abuse and battery in the family are critical problems that have serious physical and psychological effects on individual family members, especially the young, and jeopardize the health and survival of the family unit,

Recognizing further the adverse effects of exposure to domestic violence, especially at an early stage of human development, and the incalculable harm thereof,

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31/ See Sixth United Nations Congress ..., chap. I, sect. B.

32/ For the report of the World Conference, see A/CONF.116/28 and Corr.1-4.

33/ General Assembly resolution 1386 (XIV).

34/ General Assembly resolution 34/180, annex.

Convinced that the problem of domestic violence is a multifaceted one which should be examined from the perspective of crime prevention and criminal justice in the context of socio-economic circumstances,

Convinced also of the necessity to improve the situation of the victims of domestic violence,

Concerned that the abuse of alcohol, narcotic drugs and psychotropic substances may be an exacerbating factor in domestic violence and that effects thereof should be further examined,

1. Takes note with appreciation of the report of the Secretary-General on the situation of women as victims of crime; 35/

2. Invites Member States concerned to take specific action urgently in order to prevent domestic violence and to render the appropriate assistance to the victims thereof;

3. Requests the Secretary-General to intensify research on domestic violence from a criminological perspective to formulate distinct action-oriented strategies that could serve as a basis for policy formulation and to report thereon to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

4. Requests the Economic and Social Council to invite the Committee on Crime Prevention and Control to examine the problem of domestic violence;

5. Urges all relevant United Nations bodies, agencies and institutes to collaborate with the Secretary-General in ensuring a concerted and sustained effort to combat this problem;

6. Invites the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider the problem of domestic violence under a separate agenda item dealing with domestic violence;

7. Invites Member States to adopt specific measures with a view to making the criminal and civil justice system more sensitive in its response to domestic violence, including the following:

(a) To introduce, if not already in place, civil and criminal legislation in order to deal with particular problems of domestic violence, and to enact and enforce such laws in order to protect battered family members and punish the offender and to offer alternative ways of treatment for offenders, according to the type of violence;

(b) To respect, in all instances of the criminal proceeding, starting with the police investigation, the special and sometimes delicate position of the victim, in particular in the manner in which the victim is treated;

(c) To initiate preventive measures, such as providing support and counselling to families, in order to improve their ability to create a non-violent environment, emphasizing principles of education, equality of rights and equality of responsibilities between women and men, their partnership and the peaceful resolution of conflicts;

(d) To inform the public, as necessary, through all available channels, about serious acts of violence perpetrated against children, in order to create public awareness of this problem;

(e) To deliver appropriate, specialized assistance to victims of domestic violence, as an integral part of social policy;

(f) To provide, as a temporary solution, shelters and other facilities and services for the safety of victims of domestic violence;

(g) To provide specialized training and units for those who deal in some capacity with victims of domestic violence;

(h) To initiate or intensify research and collect data on the background, extent and types of domestic violence;

(i) To make legal remedies to domestic violence more accessible and, in view of the criminogenic effects of the phenomenon, in particular on young victims, to give due consideration to the interests of society by maintaining a balance between intervention and the protection of privacy;

(j) To ensure that social welfare and health administration systems are more intensely engaged in providing assistance to victims of familial violence and abuses, and to make all efforts to co-ordinate social welfare and criminal justice measures.

D. Other instruments adopted by the Congress

1. Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners

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

Recalling resolution 13 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 36/ in which States Members of the United Nations were urged to consider the establishment of procedures whereby transfers of offenders might be effected,

Recognizing the difficulties of foreigners detained in prison establishments abroad owing to such factors as differences in language, culture, customs and religion,

Considering that the aim of social resettlement of offenders could best be achieved by giving foreign prisoners the opportunity to serve their sentence within their country of nationality or residence,

Convinced that the establishment of procedures for the transfer of prisoners, on either a bilateral or a multilateral basis, would be highly desirable,

Taking note of the existing multilateral and bilateral international agreements on the transfer of foreign prisoners,

1. Adopts the Model Agreement on the Transfer of Foreign Prisoners contained in annex I to the present resolution;
2. Approves the recommendations on the treatment of foreign prisoners contained in annex II below;
3. Invites Member States, if they have not yet established treaty relations with other Member States in the matter of the transfer of foreign prisoners to their own countries, or if they wish to revise existing treaty relations, to take into account, whenever doing so, the Model Agreement on the Transfer of Foreign Prisoners annexed hereto;
4. Requests the Secretary-General to assist Member States, at their request, in the development of agreements on the transfer of foreign prisoners and to report regularly thereon to the Committee on Crime Prevention and Control.

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36/ See Sixth United Nations Congress ..., chap. I, sect. B.

ANNEX I

Model Agreement on the Transfer of Foreign Prisoners

PREAMBLE

The \_\_\_\_\_ and the \_\_\_\_\_

Desirous of further developing mutual co-operation in the field of criminal justice,

Believing that such co-operation should further the ends of justice and the social resettlement of sentenced persons,

Considering that those objectives require that foreigners who are deprived of their liberty as the result of a criminal offence should be given the opportunity to serve their sentences within their own society,

Convinced that this aim can best be achieved by transferring foreign prisoners to their own countries,

Bearing in mind that the full respect for human rights, as laid down in universally recognized principles, should be ensured,

Have agreed on the following:

I. GENERAL PRINCIPLES

1. The social resettlement of offenders should be promoted by facilitating the return of persons convicted of crime abroad to their country of nationality or of residence to serve their sentence at the earliest possible stage. In accordance with the above, States should afford each other the widest measure of co-operation.
2. A transfer of prisoners should be effected on the basis of mutual respect for national sovereignty and jurisdiction.
3. A transfer of prisoners should be effected in cases where the offence giving rise to conviction is punishable by deprivation of liberty by the judicial authorities of both the sending (sentencing) State and the State to which the transfer is to be effected (administering State) according to their national laws.
4. A transfer may be requested by either the sentencing or the administering State. The prisoner, as well as close relatives, may express to either State their interest in the transfer. To that end, the contracting State shall inform the prisoner of their competent authorities.
5. A transfer shall be dependent on the agreement of both the sentencing and the administering State, and should also be based on the consent of the prisoner.

6. The prisoner shall be fully informed of the possibility and of the legal consequences of a transfer, in particular whether or not he might be prosecuted because of other offences committed before his transfer.

7. The administering State should be given the opportunity to verify the free consent of the prisoner.

8. Any regulation concerning the transfer of prisoners shall be applicable to sentences of imprisonment as well as to sentences imposing measures involving deprivation of liberty because of the commission of a criminal act.

9. In cases of the person's incapability of freely determining his will, his legal representative shall be competent to consent to the transfer.

## II. OTHER REQUIREMENTS

10. A transfer shall be made only on the basis of a final and definitive sentence having executive force.

11. At the time of the request for a transfer, the prisoner shall, as a general rule, still have to serve at least six months of the sentence; a transfer should, however, be granted also in cases of indeterminate sentences.

12. The decision whether to transfer a prisoner shall be taken without any delay.

13. The person transferred for the enforcement of a sentence passed in the sentencing State may not be tried again in the administering State for the same act upon which the sentence to be executed is based.

## III. PROCEDURAL REGULATIONS

14. The competent authorities of the administering State shall: (a) continue the enforcement of the sentence immediately or through a court or administrative order; or (b) convert the sentence, thereby substituting for the sanction imposed in the sentencing State a sanction prescribed by the law of the administering State for a corresponding offence.

15. In the case of continued enforcement, the administering State shall be bound by the legal nature and duration of the sentence as determined by the sentencing State. If, however, this sentence is by its nature or duration incompatible with the law of the administering State, this State may adapt the sanction to the punishment or measure prescribed by its own law for a corresponding offence.

16. In the case of conversion of sentence, the administering State shall be entitled to adapt the sanction as to its nature or duration according to its national law, taking into due consideration the sentence passed in the sentencing State. A sanction involving deprivation of liberty shall, however, not be converted to a pecuniary sanction.

17. The administering State shall be bound by the findings as to the facts in so far as they appear from the judgement imposed in the sentencing State. Thus the sentencing State has the sole competence for a review of the sentence.
18. The period of deprivation of liberty already served by the sentenced person in either State shall be fully deducted from the final sentence.
19. A transfer shall in no case lead to an aggravation of the situation of the prisoner.
20. Any costs incurred because of a transfer and related to transportation should be borne by the administering State, unless otherwise decided by both the sentencing and administering States.

#### IV. ENFORCEMENT AND PARDON

21. The enforcement of the sentence shall be governed by the law of the administering State.
22. Both the sentencing and the administering State shall be competent to grant pardon and amnesty.

#### V. FINAL CLAUSES

23. This agreement shall be applicable to the enforcement of sentences imposed either before or after its entry into force.
24. This agreement is subject to ratification. The instruments of ratification shall be deposited as soon as possible in \_\_\_\_\_.
25. This agreement shall enter into force on the thirtieth day after the day on which the instruments of ratification are exchanged.
26. Either Contracting Party may denounce this agreement in writing to the \_\_\_\_\_. Denunciation shall take effect six months following the date on which the notification is received by the \_\_\_\_\_.

In witness whereof the undersigned, being duly authorized thereto by the respective Governments, have signed this treaty.

## ANNEX II

### Recommendations on the treatment of foreign prisoners

1. The allocation of a foreign prisoner to a prison establishment should not be effected on the grounds of his nationality alone.
2. Foreign prisoners should have the same access as national prisoners to education, work and vocational training.
3. Foreign prisoners should in principle be eligible for measures alternative to imprisonment, as well as for prison leave and other authorized exits from prison according to the same principles as nationals.
4. Foreign prisoners should be informed promptly after reception into a prison, in a language which they understand and generally in writing, of the main features of the prison régime, including relevant rules and regulations.
5. The religious precepts and customs of foreign prisoners should be respected.
6. Foreign prisoners should be informed without delay of their right to request contacts with their consular authorities, as well as of any other relevant information regarding their status. If a foreign prisoner wishes to receive assistance from a diplomatic or consular authority, the latter should be contacted promptly.
7. Foreign prisoners should be given proper assistance, in a language they can understand, when dealing with medical or programme staff and in such matters as complaints, special accommodation, special diets and religious representation and counselling.
8. Contacts of foreign prisoners with families and community agencies should be facilitated, by providing all necessary opportunities for visits and correspondence, with the consent of the prisoner. Humanitarian international organizations, such as the International Committee of the Red Cross, should be given the opportunity to assist foreign prisoners.
9. The conclusion of bilateral and multilateral agreements on supervision of and assistance to offenders given suspended sentences or granted parole could further contribute to the solution of the problems faced by foreign offenders.

## 2. Basic Principles on the Independence of the Judiciary

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

Recalling the Caracas Declaration, 37/ unanimously adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 35/171 of 15 December 1980,

Recalling also resolution 16 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 38/ in which the Congress called upon the Committee on Crime Prevention and Control to include among its priorities the elaboration of guidelines relating to the independence of judges,

Recalling further Economic and Social Council decision 1984/153 of 25 May 1984, in which the Council invited the interregional preparatory meeting on the formulation and application of United Nations standards and norms in criminal justice to finalize the draft guidelines on the independence of the judiciary, formulated by the Committee on Crime Prevention and Control at its eighth session and invited the Secretary-General to submit the final text to the Seventh Congress for adoption,

Taking note with appreciation of the work accomplished in pursuance of the mandate cited above by the Committee on Crime Prevention and Control and by the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Varenna, Italy, from 24 to 28 September 1984,

Further taking note with appreciation of the extensive discussions during the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders with respect to the draft guidelines on the independence of the judiciary, 39/ which led to the formulation of the Basic Principles on the Independence of the Judiciary,

1. Adopts the Basic Principles on the Independence of the Judiciary contained in the annex to the present resolution;
2. Recommends the Basic Principles for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;
3. Invites Governments to take into account within the framework of their national legislation and practice and to respect the Basic Principles;
4. Also invites Member States to bring the Basic Principles to the attention of judges, lawyers, members of the executive and the legislature and the public in general;

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37/ Ibid., sect. A.

38/ Ibid., sect. B.

39/ A/CONF.121/9 and Corr.1.

5. Urges the regional commissions, the regional and interregional institutes in the field of the prevention of crime and the treatment of offenders, the specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations having consultative status with the Economic and Social Council to become actively involved in the implementation of the Basic Principles;

6. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, the effective implementation of the present resolution;

7. Requests the Secretary-General to take steps, as appropriate, to ensure the widest possible dissemination of the Basic Principles;

8. Also requests the Secretary-General to prepare a report on the implementation of the Basic Principles;

9. Further requests the Secretary-General to assist Member States, at their request, in the implementation of the Basic Principles and to report thereon regularly to the Committee on Crime Prevention and Control;

10. Requests that the present resolution be brought to the attention of all United Nations bodies concerned.

#### ANNEX

##### Basic Principles on the Independence of the Judiciary

Whereas in the Charter of the United Nations the peoples of the world affirm, inter alia, their determination to establish conditions under which justice can be maintained to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms without any discrimination,

Whereas the Universal Declaration of Human Rights enshrines in particular the principles of equality before the law, of the presumption of innocence and of the right to a fair and public hearing by a competent, independent and impartial tribunal established by law,

Whereas the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights both guarantee the exercise of those rights, and in addition, the Covenant on Civil and Political Rights further guarantees the right to be tried without undue delay,

Whereas frequently there still exists a gap between the vision underlying those principles and the actual situation,

Whereas the organization and administration of justice in every country should be inspired by those principles, and efforts should be undertaken to translate them fully into reality,

Whereas rules concerning the exercise of judicial office should aim at enabling judges to act in accordance with those principles,

Whereas judges are charged with the ultimate decision over life, freedoms, rights, duties and property of citizens,

Whereas the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, by its resolution 16, called upon the Committee on Crime Prevention and Control to include among its priorities the elaboration of guidelines relating to the independence of judges and the selection, professional training and status of judges and prosecutors,

Whereas it is, therefore, appropriate that consideration be first given to the role of judges in relation to the system of justice and to the importance of their selection, training and conduct,

The following basic principles, formulated to assist Member States in their task of securing and promoting the independence of the judiciary should be taken into account and respected by Governments within the framework of their national legislation and practice and be brought to the attention of judges, lawyers, members of the executive and the legislature and the public in general. The principles have been formulated principally with professional judges in mind, but they apply equally, as appropriate, to lay judges, where they exist.

#### Independence of the judiciary

1. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.
2. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.
3. The judiciary shall have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law.
4. There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision. This principle is without prejudice to judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary, in accordance with the law.
5. Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.
6. The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.
7. It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions.

### Freedom of expression and association

8. In accordance with the Universal Declaration of Human Rights, members of the judiciary are like other citizens entitled to freedom of expression, belief, association and assembly; provided, however, that in exercising such rights, judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary.

9. Judges shall be free to form and join associations of judges or other organizations to represent their interests, to promote their professional training and to protect their judicial independence.

### Qualifications, selection and training

10. Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status, except that a requirement, that a candidate for judicial office must be a national of the country concerned, shall not be considered discriminatory.

### Conditions of service and tenure

11. The term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law.

12. Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists.

13. Promotion of judges, wherever such a system exists, should be based on objective factors, in particular ability, integrity and experience.

14. The assignment of cases to judges within the court to which they belong is an internal matter of judicial administration.

### Professional secrecy and immunity

15. The judiciary shall be bound by professional secrecy with regard to their deliberations and to confidential information acquired in the course of their duties other than in public proceedings, and shall not be compelled to testify on such matters.

16. Without prejudice to any disciplinary procedure or to any right of appeal or to compensation from the State, in accordance with national law, judges should enjoy personal immunity from civil suits for monetary damages for improper acts or omissions in the exercise of their judicial functions.

Discipline, suspension and removal

17. A charge or complaint made against a judge in his/her judicial and professional capacity shall be processed expeditiously and fairly under an appropriate procedure. The judge shall have the right to a fair hearing. The examination of the matter at its initial stage shall be kept confidential, unless otherwise requested by the judge.
18. Judges shall be subject to suspension or removal only for reasons of incapacity or behaviour that renders them unfit to discharge their duties.
19. All disciplinary, suspension or removal proceedings shall be determined in accordance with established standards of judicial conduct.
20. Decisions in disciplinary, suspension or removal proceedings should be subject to an independent review. This principle may not apply to the decisions of the highest court and those of the legislature in impeachment or similar proceedings.

E. Other resolutions and decision adopted by the Congress

Resolutions

1. Organized crime

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

Seriously concerned by the abundant evidence of the escalation of organized crime, including illicit drug trafficking, in many countries and its enormous social and economic costs,

Aware that organized crime increasingly crosses national boundaries, is often camouflaged as apparently legitimate business activity and is extremely difficult to combat,

Recalling resolution 7 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Caracas from 25 August to 5 September 1980, 40/ relating to the prevention of the abuse of power, in which it was recommended that co-operative efforts should be intensified among Member States to prevent, prosecute and control this form of activity and that such efforts, including mutual legal assistance treaties or conventions, should make provision for the establishment of procedures for the gathering of evidence and the extradition of persons,

Noting the provisions of the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, submitted for the consideration of the Seventh United Nations Congress, which state that ways and means of international co-operation in penal matters, such as extradition and various forms of investigative and judicial assistance, should be made less cumbersome and more effective, and that the United Nations should develop appropriate model instruments for use by interested countries to promote further the use of such mechanisms and to maximize the effectiveness of international co-operation in the struggle against crime, 41/

Noting also the conventions and draft conventions adopted, or under consideration, by a number of regional organizations on the subject of mutual legal assistance,

Recalling General Assembly resolution 39/112 of 14 December 1984, in which, inter alia, the Assembly invited the Seventh Congress to pay particular attention to the question of illicit drug trafficking, and Assembly resolutions 39/141, 39/142 and 39/143 of 14 December 1984 dealing with the Draft Convention against Traffic in Narcotic Drugs and Psychotropic Substances and Related Activities, 42/

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40/ See Sixth United Nations Congress ..., chap. I, sect. B.

41/ A/CONF.121/19; See also sect. B above, annex, para. 39.

42/ General Assembly resolution 39/141, annex.

the Declaration on the Control of Drug Trafficking and Drug Abuse 43/ and the international campaign against traffic in drugs, respectively,

Deeply concerned at the upward trend, as reported by the regional preparatory meetings for the Seventh Congress and the International Youth Year, in the involvement of young people in drug offences, leading to their physical and mental deterioration, the commission of crime, particularly in order to finance expensive drug habits, and even suicide,

1. Calls upon Member States to intensify their efforts to combat more effectively organized crime at the national level, including consideration, if thought necessary in their respective systems, of the following measures, subject to safeguards and the maintenance of basic rights under ordinary legal procedures and in conformity with international human right standards:

(a) The modernizing of national criminal laws and procedures, including measures to:

- (i) Introduce new offences directed at novel and sophisticated forms of criminal activity;
- (ii) Provide for the forfeiture of illegally acquired assets;
- (iii) Facilitate the obtaining of evidence abroad for use in criminal proceedings in national courts;
- (iv) Modernize national laws relating to extradition;

(b) The conduct of national campaigns against drug abuse to develop measures for the treatment, rehabilitation, law enforcement and educational processes to deal with drug abuse;

(c) The strengthening of law enforcement authorities and the provision to those authorities of increased powers;

(d) The establishment of national institutions, such as national crime authorities or commissions, with appropriate powers, to investigate and obtain evidence for the prosecution of those centrally involved in organized criminal activity;

(e) The review or adoption of laws relating to taxation, the abuse of bank secrecy and gaming houses, in order to ensure that they are adequate to assist in the fight against organized crime and, in particular, the transfer of funds for or the proceeds of such crime across national boundaries;

2. Urges Member States to increase their activity at the international level in order to combat organized crime, including, as appropriate, becoming parties to relevant multilateral treaties and entering into bilateral treaties on extradition and mutual legal assistance;

3. Recommends that the Committee on Crime Prevention and Control should be requested to:

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43/ General Assembly resolution 39/142, annex.

(a) Develop a comprehensive framework of guidelines and standards that would assist Governments in the development of measures to deal with organized crime at the national, regional and international levels;

(b) Develop model treaties dealing with extradition and mutual legal assistance, having regard to the efforts already undertaken by several States and regional organizations;

4. Urges the Commission on Narcotic Drugs to continue to arrange for the regular dissemination of information on treatment, rehabilitation and educational programmes to deal with drug abuse, particularly as it affects young people;

5. Recommends that Member States should accord the highest priority to measures to combat organized crime and, in particular, should give urgent attention to the development of extradition treaties and mutual legal assistance and co-operation arrangements, under ordinary legal procedures and in conformity with international human rights standards.

## 2. Struggle against illicit drug trafficking

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

Concerned by the damage which the illicit drug traffic and abuse caused to public health, in particular to the health of young people, and to the economic and social development of peoples,

Concerned by the ascertained increase in illicit drug traffic reported by many Member States,

Considering that the greatest part of the illicit drug traffic is carried on by persons involved in criminal organizations whose activities usually cross national borders, and that such organizations are able to make use of enormous financial means,

Noting that the high profits obtained from illicit traffic are, on the one hand, a constant incentive for criminals to engage in the said traffic and that, on the other hand, those profits are financial resources which will eventually be used in this, as well as in other illicit activities,

Considering, therefore, that the struggle against illicit traffic could be more effective if, in addition to traditional means of criminal justice, other legal means were introduced in order to prevent the accumulation and reuse of illicit resources, particularly through the forfeiture thereof,

Considering, moreover, that it would be useful to strengthen the means of investigation in criminal proceedings, as concerns the origin, formation and destination of illicit proceeds,

Considering that the international character of drug traffic requires the closest co-operation among States in criminal proceedings and that such co-operation should also cover the activities concerning investigations of illicit proceeds, their seizure and forfeiture,

Recalling resolution I (XXX) adopted on 15 February 1983 by the Commission on Narcotic Drugs, in which it has been recognized, among other things, that depriving criminals of the proceeds from drug trafficking is an effective means of reducing that traffic,

Bearing in mind the significance of existing international instruments, particularly the Single Convention on Narcotic Drugs, 1961, 44/ as amended by the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961, 45/ and the Convention on Psychotropic Substances of 1971, 46/ in creating a legal framework for combating the illicit production of drugs and drug abuse,

Convinced that, owing to the increasing complexity and sophistication of drug trafficking, further legal measures, at the national and international levels, must be developed to combat more effectively drug trafficking,

Recalling General Assembly resolution 39/141 of 14 December 1984, whereby the preparation has been started of a new convention against illicit traffic governing, in particular, those aspects which are not governed by the instruments now in force,

Recognizing the role of the Committee on Crime Prevention and Control in studying measures to combat crime, including all forms of organized crime,

Considering that the subject of the intervention of the proceeds from illicit traffic is not specifically dealt with either in the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961, or in the other existing instruments on narcotic drugs and psychotropic substances,

Believing that, in addition to any intervention on illicit profits, a full effort should be made in order to study and adopt new legal instruments of combat, and of international co-operation in the struggle against illicit traffic, in addition to those provided for in international agreements already in force,

Bearing in mind the need for safeguards and the maintenance of basic rights under ordinary legal procedures and in conformity with international human rights standards,

1. Invites all States Members of the United Nations to:

(a) Strengthen the instruments of combat against illicit drug traffic, also introducing or strengthening any legal instrument which appears to be effective in regard to the nature of organized crime, either international or transnational, displayed by such traffic;

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44/ United Nations, Treaty Series, vol. 520, No. 7515, p. 151.

45/ Ibid., vol. 976, No. 14151, p. 4.

46/ Ibid., vol. 1019, No. 14936, p. 175.

(b) Introduce or strengthen, taking into account the characteristics of each domestic legislation, all such legal instruments as can facilitate the investigation of the proceeds from illicit traffic or allow the tracing, freezing and forfeiture thereof;

(c) Take all necessary legislative measures to maximize co-operation among States in the matter of investigation of illicit profits and the forfeiture thereof;

(d) Provide, when this appears to be necessary, for new kind of offences concerning the acquisition, possession, use or so-called laundering of illicit profits, in order to broaden the opportunities for the investigation and forfeiture of said profits;

2. Urges States that have not already done so to ratify the existing international instruments dealing with illicit drug trafficking;

3. Recommends that the preparation of a new international instrument on illicit drug traffic should be considered by Member States and the competent bodies of the United Nations as an absolute priority;

4. Further recommends that, in formulating the said new international instrument, a full effort should be made to introduce provisions addressing the issues set forth in operative paragraph 1;

5. Recommends also that a new international instrument on drug trafficking could further contribute to the international legal framework by addressing also the following subjects:

(a) Providing for effective penalties that take into consideration the serious nature of drug trafficking offences;

(b) Establishing all drug trafficking offences as extraditable offences;

(c) Establishing a system of control of precursor substances and essential chemicals used in the manufacturing of illicit drugs;

(d) Establishing jurisdictional issues regarding drug trafficking committed on the high seas;

(e) Developing measures to ensure a defendant's presence for the purpose of prosecution or extradition, taking into consideration the serious nature of the offence of drug trafficking;

(f) Introducing and recognizing the investigative technique of controlled delivery in cases involving major drug violators, and the legal measures necessary to permit international co-operation in the utilization of that technique, on a case-by-case basis;

(g) Developing measures, consistent with international postal treaties and the sanctity of the mails, to counter drug smuggling through international postal systems;

(h) Establishing improved measures at free trade zones and ports to ensure that drugs and chemicals entering or in transit are of legitimate origin and are destined for legitimate purposes;

6. Requests the Secretary-General of the United Nations to bring the present resolution, as well as the relevant parts of the report of the Seventh Congress, to the attention of Member States and the competent bodies of the United Nations.

### 3. International co-operation in drug abuse control

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

Alarmed by the dramatic exacerbation of all aspects of criminality brought about by the spread of illicit trafficking and abuse of drugs,

Considering that illicit drug trafficking has international dimensions and that the network of various types of drug-related criminal misbehaviour has well-established international implications,

Convinced that, in view of the international character and dimensions of drug-related criminal manifestations, their prevention and control require a dynamic international response,

Recognizing that any further delay in the full implementation of such a strategy poses serious dangers for individual human rights and for the economic, cultural and political structures of society,

Affirming that the development of appropriate international action requires a concerted effort by all States,

Recognizing that not all countries possess adequate resources to join this international undertaking and that it is, therefore, indispensable to provide the necessary assistance to permit them to do so,

Acknowledging that the international community has established the United Nations Fund for Drug Abuse Control as an appropriate tool for organizing and implementing such international assistance,

Acknowledging with appreciation the efforts already made by the Fund which, in recent years, as a result of the increased generous contributions of some countries, has strengthened and expanded its programme,

Appreciating the necessity to integrate the programmes for drug control and prevention of drug abuse within the general developmental needs of the concerned countries,

Noting that, compared with the gravity of the needs, those achievements are still insufficient and much more remains to be done,

1. Invites Member States to take full advantage of the facility offered by the United Nations Fund for Drug Abuse Control to pool resources and thus achieve a greater impact through improved co-ordination and unified programming;

2. Urges Member States, in order to give a firm impetus to the fight of the world community against international drug traffic, to initiate or increase substantially contributions to the Fund.

4. Establishment of an African Regional Institute for the Prevention of Crime and the Treatment of Offenders

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

Recalling resolution 19 adopted by the Sixth United Nations Congress on Crime Prevention and the Treatment of Offenders and, in particular, the recommendations contained therein, 47/

Also recalling that the Regional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Addis Ababa from 28 November to 2 December 1983, 48/ expressed great concern at the delay in the establishment of the African Regional Institute for the Prevention of Crime and the Treatment of Offenders and called upon all the organizations and institutions involved in the establishment of that Institute to take urgent measures, in co-operation with the Organization of African Unity, to ensure the rapid realization of this project, and further called upon the Member States of the African region to co-operate fully in this respect,

Taking into account the new dimensions of criminality and crime prevention in the African region, which call for urgent action designed to moderate the deleterious impact of crime on the development process,

1. Urgently requests the Secretary-General of the United Nations to establish, as a matter of the highest priority, in close collaboration with the Organization of African Unity and with the participation of the Economic Commission for Africa, an African Regional Institute for the Prevention of Crime and Treatment of Offenders;

2. Also requests the Secretary-General to arrange a meeting of African experts on this issue as soon as possible in order to consider the role, operation, organization and administration of the Regional Institute;

3. Appeals to all countries and regional organizations to support strongly whatever efforts the Secretary-General of the United Nations may take in this regard;

4. Requests the Secretary-General to call on the competent bodies and agencies of the United Nations system to provide the necessary financial assistance for the establishment of the Institute;

5. Further requests the Secretary-General to report regularly to the General Assembly of the United Nations on the measures taken for the establishment of this Institute;

6. Requests finally the Secretary-General to report to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the implementation of the present resolution.

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47/ See Sixth United Nations Congress ..., chap. I, sect. B.

48/ See A/CONF.121/RPM.4, annex III.

5. Technical co-operation in the field of crime prevention and criminal justice

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

Convinced of the importance of strengthening the programmes of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs and of the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders, particularly those serving the developing countries,

Recalling Economic and Social resolution 1979/20 of 9 May 1979, in which the Council emphasized the importance of technical co-operation in the field of crime prevention and efforts to combat delinquency, especially for the developing countries,

Recalling also General Assembly resolution 36/21 of 9 November 1981, in which the Assembly urged the Department of Technical Co-operation for Development of the United Nations Secretariat and the United Nations Development Programme to increase their level of support to programmes of technical co-operation among developing countries,

Taking note of resolutions 18 and 19 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in 1980, 49/ referring to the importance of the specialized regional institutes for the developing regions,

Bearing in mind Economic and Social Council resolution 1984/51 of 25 May 1984, in which the Council requested the strengthening of appropriate arrangements for the support of technical co-operation in crime prevention and criminal justice between developed and developing countries, and also among developing countries,

Convinced that various forms of technical co-operation at the regional and international levels should be expanded and that the United Nations regional and interregional institutes should play an important role in this regard,

Realizing that the United Nations regional and interregional institutes have made an important contribution to the development, promotion and intensification of technical co-operation in the field of crime prevention and criminal justice, despite the shortage of financial and human resources,

1. Requests the Secretary-General of the United Nations to give special attention to technical co-operation among developing countries 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;

2. Invites Governments to contribute financially, through the United Nations Trust Fund for Social Defence, to the development of United Nations technical assistance activities supported by, among other organs, the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian

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49/ See Sixth United Nations Congress ..., chap. I, sect. B.

Affairs of the Secretariat and to the strengthening of the activities of the United Nations interregional and regional institutes specializing in the prevention of crime and the treatment of offenders, particularly those serving the developing countries;

3. Further invites Governments to include in their country programmes for the United Nations Development Programme activities relating to the improvement of the system of criminal justice and crime prevention;

4. Urges the United Nations regional commissions to include crime prevention and criminal justice activities in their programmes in the context of global socio-economic planning, and to channel those programmes through the United Nations regional institutes for the prevention of crime and the treatment of offenders.

6. Fair treatment of women by the criminal justice system

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

Reaffirming resolution 9 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Caracas from 25 August to 5 September 1980, 50/ and Economic and Social Council resolution 1984/49 of 25 May 1984 concerning the fair treatment of women by the criminal justice system and the recommendations contained therein,

Aware that the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders is addressing females as offenders and victims under substantive items of its agenda,

Aware also of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held at Nairobi from 15 to 26 July 1985, particularly the special areas of concern identified in the Nairobi Forward-looking Strategies for the Advancement of Women 51/ relating to abused women, women in detention and subject to penal law and women victims of crime, violence or abuse, and noting the resolution on domestic violence against women 52/ submitted to the Second Committee of the Conference,

Bearing in mind that violence against women is a phenomenon in many areas of the world requiring immediate and effective policy action, that female victimization is extensive in many areas, that inadequate services and insufficient attention are offered to female victims and that many of them do not receive fair and humane treatment within the criminal justice system,

Seriously concerned that many criminal justice systems are dealing with an increasing number of females, whether as victims or offenders, but that programmes,

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50/ Ibid.

51/ See A/CONF.116/28/Rev.1 (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A.

52/ Ibid., annex I, sect. 2, document A/CONF.116/C.2/L.20, as revised.

services and personnel remain insufficient and inadequate to meet their special needs and circumstances,

Noting with appreciation the reports of the Secretary-General on the situation of women as victims of crime 53/ and on the fair treatment of women by the criminal justice system and the efforts undertaken by the Secretary-General in the conduct of the First United Nations Survey on the Situation of Women and the Administration of Criminal Justice Systems, 1970-1982, 54/

1. Invites Governments to pay particular attention to implementing parity of programmes and services for female offenders and to recognize and provide for the special needs of adult and juvenile females;

2. Invites criminal justice authorities to examine the alternatives to the confinement of female offenders at each stage of the criminal justice process and to endeavour to ensure fair and equitable processing and the imposition of sanctions that are appropriate to the offence;

3. Requests the Secretary-General, in the implementation of the resolutions adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders directly or indirectly relevant to female offenders, victims and practitioners, to ensure that recognition shall be given to their particular situations and to the need to provide for them;

4. Recommends that, in furtherance of resolution 9 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Secretary-General and Member States should develop adequate strategies to ensure the fair treatment of female offenders, victims and criminal justice practitioners, and should encourage co-operative links with social, medical and mental health services;

5. Invites Member States to provide equal opportunities with respect to the recruitment, training and advancement of women in all sectors of the criminal justice system;

6. Requests the Secretary-General, and particularly the United Nations institutes for the prevention of crime and the treatment of offenders, in collaboration with the regional commissions and other relevant United Nations organizations, to intensify efforts in the areas of training, personnel exchange, research and policy formulation and evaluation, and technical assistance concerning the fair treatment of women by the criminal justice system;

7. Requests the Secretary-General, in consultation with the Commission on the Status of Women, to report to the Committee on Crime Prevention and Control within three years or, if earlier, in time for the first preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and to report to the Eighth Congress on progress achieved since the Seventh Congress in the fair and equitable treatment of women as offenders, victims and practitioners;

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53/ A/CONF.121/16.

54/ A/CONF.121/17 and Corr.1 and A/CONF.121/17/Add.1.

8. Recommends the inclusion of the fair treatment of females as a continuing and regular activity of the programme of work of the Secretariat in the field of crime prevention and criminal justice and that this question be discussed regularly by the Committee on Crime Prevention and Control and at future congresses.

## 7. Prosecution

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

Considering the concerns expressed by the United Nations at all times for the role of justice in the world,

Bearing in mind that a fair and equitable criminal justice system, the effective protection of citizens against crime and the humane treatment of offenders depend on the way prosecutors carry out their functions and on the impartiality of prosecutors in instituting prosecutions, as well as on the independence and impartiality of the judiciary,

Aware that, because of the pivotal role that prosecutors play in the administration of justice, it is necessary to avoid all political, social, racial, religious, cultural, sexual or any other kind of discrimination in the selection and appointment of prosecutors,

Considering that professional qualifications are essential to ensure that prosecutors accomplish their tasks and that, accordingly, it is necessary to improve the recruitment and the legal and professional training of prosecutors, and to provide them with all the necessary means to enable them properly to fulfil their function in combating criminality, particularly in its new forms,

Affirming the concern expressed in resolution 16 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Caracas from 25 August to 5 September 1980, with respect to the selection and training of prosecutors, 55/

1. Recommends that Member States should avoid all political, social, racial, religious, cultural, sexual or any other kind of discrimination in the selection, appointment and advancement in their professional career of prosecutors;

2. Also recommends that Member States should guarantee the objectivity and proper functioning of the prosecution service so as to ensure the humane and effective administration of justice;

3. Recommends that Member States should make all necessary improvements in the recruitment and training, including in-service training, of prosecutors, and that they should consider the possible need to devote more resources to the recruitment and training of qualified prosecutors;

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55/ See Sixth United Nations Congress ..., chap. I, sect. B.

4. Requests the Secretary-General to provide interested Member States with technical assistance, as needed and requested by them, to attain the objectives described above;

5. Also requests the Secretary-General to encourage international collaboration in research and in the training of prosecutors, using in particular regional and interregional institutes for the prevention of crime and the treatment of offenders;

6. Calls upon the Committee on Crime Prevention and Control to consider the need for guidelines relating to the selection, professional training and status of prosecutors, their expected tasks and conduct, the question of the prosecutors' immunity, means to enhance their contribution to the smooth functioning of the criminal justice system and their co-operation with the police, the scope of their discretionary powers, and their role in criminal proceedings, and to report thereon to future United Nations congresses.

8. Criminal justice systems - development of guidelines for the training of criminal justice personnel

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

Noting that the criminal justice system is an important mechanism for ensuring peace, justice and freedom in society,

Considering that, in order to achieve the goal of the prevention and control of crime to the fullest extent, criminal justice systems should be responsive to the changing nature of crime and society,

Aware that research should be fully utilized in formulating and implementing relevant policies regarding the administration of criminal justice,

Acknowledging that the training of criminal justice personnel in all parts of the system is important in enhancing the effective administration of criminal justice systems,

1. Recommends that Member States should develop and implement adequate training programmes for criminal justice personnel;

2. Requests the Secretary-General to develop guidelines for the establishment of training programmes in all parts of the system for criminal justice personnel and to report thereon to the Committee on Crime Prevention and Control.

9. Development of crime and criminal justice information and statistical systems

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

Recalling the concern of the Fifth and Sixth United Nations Congresses on the Prevention of Crime and the Treatment of Offenders with respect to more adequate

statistics about crime and delinquency and the development of criminal justice information systems, 56/

Recognizing the existence of and need for experts among the United Nations staff and among certain Member States who could provide technical assistance on statistical matters to Member States, as requested,

Acknowledging with appreciation the efforts which have already been made by the Secretary-General in collecting international crime statistics through two survey efforts and in analyses of world crime trends,

Noting the existence in some countries of the need to develop relevant and reliable statistical and other information about the phenomenon of crime and the operation of justice systems,

Recognizing the importance of information, particularly statistical information comparable among Member States, in research activities to understand better crime and the operation of justice systems in Member States,

Noting the potential benefits of such information, including better use of resources, enhanced ability to deal effectively with crime and improved ability to administer justice in an even-handed and fair way within a Member State,

Taking note of the shortage of information in certain countries about crime that can be used to document and deal more effectively with problems of crime and justice in those countries,

Mindful that information on persons involved in criminal justice processes must be protected from inappropriate use,

Recalling Economic and Social Council resolution 1984/48 of 25 May 1984, mandating the collection of data on crime and the operation of criminal justice systems,

1. Invites interested Member States to provide for proper measures to enhance the transfer of information within the agencies of the criminal justice system, and between such agencies and the community;
2. Urges interested Member States also to take the necessary steps to protect the rights and legal interests of citizens concerning the privacy of individually identifiable data contained in criminal justice information systems;
3. Requests the Secretary-General to initiate work on the use of information systems in the administration of criminal justice for those Member States requesting such assistance and to report thereon to the Committee on Crime Prevention and Control;

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56/ For the reports of the Fifth and Sixth Congresses, see A/CONF.56/10 and Corr.1 and A/CONF.87/14/Rev.1 (United Nations publications, Sales Nos. E.76.IV.2 and corrigendum and E.81.IV.4, respectively).

4. Requests the Secretary-General to allocate existing resources to allow for the enhancement of efforts to establish and develop national statistical data bases on crime and the operation of the criminal justice systems and to strengthen the work of the United Nations regional institutes in that field;

5. Recommends that the Committee on Crime Prevention and Control should conduct a careful review of the results of the United Nations surveys of crime trends, operations of criminal justice systems and crime prevention strategies and should identify problems experienced by Member States in responding to the survey and propose solutions thereto;

6. Requests that the Secretary-General prepare a report on ways to improve the comparability and utility of data collected in the survey, and that this report should form the basis for redesigning the Third Survey; 57/

7. Recommends that the Secretary-General and Member States should place special emphasis on providing technical assistance to those developing countries that request aid in developing crime and criminal justice information and statistical programmes;

8. Further requests the Secretary-General to publish and disseminate the data collected in the survey as a simple data base, and separately with such analysis as can be undertaken by the Secretariat.

#### 10. Status of prisoners

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

Considering that recent national and regional reports have reaffirmed the value of the Standard Minimum Rules for the Treatment of Prisoners 58/ and related recommendations which, in many countries, have transformed the profile of correctional practices and policies,

Considering also that the Rules have been unanimously recognized by the reporting countries as a body of principles which provides, within the correctional process, adequate safeguards and guarantees to ensure the dignity of prisoners,

Bearing in mind that the Rules inspire the policies of Member States to the benefit of prisoners, stimulating constant endeavours to overcome practical difficulties preventing their application,

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57/ For the report on the conduct and preliminary results of the Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies, see A/CONF.121/18 and Corr.1. For the report on the First Survey, see A/32/199.

58/ Human Rights: A Compilation of International Instruments ..., sect. G.29.

Recalling that the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in its resolution 14, paid particular attention to human rights instruments and their implementation for the benefit of prisoners, 59/

Recalling also the mechanisms which have been developed at national and regional levels to safeguard rights of prisoners,

1. Welcomes the procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council in its resolution 1984/47 of 25 May 1984;

2. Takes note with appreciation of the report of the Secretary-General on the implementation of the Rules; 60/

3. Invites Member States to include, in their periodic reports to the Secretariat on the implementation of the Rules, special reference to efforts being made to ensure the guarantees embodied therein, and to the mechanisms which have been developed to that end;

4. Recommends that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its preparatory meetings should further consider those issues as a matter of importance.

#### 11. Extra-legal, arbitrary and summary executions

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

Alarmed by the practice of extra-legal, arbitrary and summary executions in several parts of the world,

Recalling the Universal Declaration of Human Rights, 61/ which guarantees the right to life, liberty and security of person,

Recalling also the International Covenant on Civil and Political Rights, 62/ which states that every human being has the inherent right to life, that this right shall be protected by law and that no one shall be arbitrarily deprived of his life,

Welcoming General Assembly resolution 39/110 of 14 December 1984, by which the Assembly once more strongly deplored the large number of summary or arbitrary executions, including extra-legal executions, which continued to take place in various parts of the world,

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59/ See Sixth United Nations Congress ..., chap. I, sect. B.

60/ See A/CONF.121/15.

61/ General Assembly resolution 217 A (III).

62/ General Assembly resolution 2200 A (XXI), annex.

Bearing in mind resolution 5 on the prevention and control of extra-legal executions, 63/ adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Caracas from 25 August to 5 September 1980,

Acknowledging the work accomplished regarding the prevention and control of extra-legal, arbitrary and summary executions by all United Nations organs concerned,

Deeply convinced of the need to strengthen further international co-operation for the prevention and control of extra-legal, arbitrary and summary executions,

Considering that the recommendations on the above question made by the Interregional Preparatory Meeting, on the topic "Formulation and application of United Nations standards and norms in criminal justice", held at Varenna, Italy, from 24 to 28 September 1984, 64/ constitute a sound basis for further activities in this field,

1. Reaffirms the strong condemnation of extra-legal, arbitrary and summary executions;
2. Calls upon all Governments to take urgent and incisive action to investigate such acts, wherever they may occur, to punish those found guilty and to take all other measures necessary to prevent those practices;
3. Requests the Secretary-General to submit an analytical review of all documents on the effective prevention, investigation and elimination of extra-legal, arbitrary and summary executions for the consideration of the Committee on Crime Prevention and Control, taking into account in particular the recommendations on this question made by the Interregional Preparatory Meeting on topic V for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders;
4. Urges Member States to provide the Secretary-General with any relevant information on the subject.

## 12. Transfer of criminal proceedings

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

Recognizing the necessity of improving ways and means of international co-operation in criminal matters,

Desiring to supplement the work already accomplished in the area of United Nations standards and norms in criminal justice,

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63/ See Sixth United Nations Congress ..., chap. I, sect. B.

64/ See A/CONF.121/IPM/3, para. 72.

Bearing in mind that the transfer of criminal proceedings could contribute to an early return of foreign offenders to their home countries, thus also contributing to their better social situation as well as to the smoother functioning of the criminal justice process,

Bearing also in mind that the formulation of a model agreement on the transfer of criminal proceedings was identified as a priority by the Committee on Crime Prevention and Control at its eighth session 65/ and by the preparatory meetings for the Seventh Congress,

Being aware that the imposition of pre-trial custody could be considerably reduced by applying the transfer of proceedings instrument rather than sentencing a foreigner in the country of the commission of the crime,

Recalling previous work already accomplished in this specific area,

1. Invites Member States to take further steps to improve the methods of international co-operation in criminal matters by considering the conclusion of agreements for the transfer of criminal proceedings;
2. Calls upon the Secretary-General to provide or facilitate the provision of professional advice and technical support at the request of Member States that are interested in establishing such proceedings;
3. Also calls upon the Secretary-General to encourage international collaboration in research with a view to the transfer of criminal proceedings, using in particular regional and interregional institutes for the prevention of crime and the treatment of offenders;
4. Requests the Committee on Crime Prevention and Control to study that subject and to consider the possibility of the formulation of a model agreement for the transfer of criminal proceedings with a view to submitting it to the General Assembly for consideration;
5. Also requests that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its preparatory meetings further consider those issues.

13. Transfer of supervision of foreign offenders who have been conditionally sentenced or conditionally released

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

Recognizing the necessity of improving ways and means of international co-operation in criminal matters,

Desiring to supplement the work already accomplished in the area of United Nations standards and norms in criminal justice,

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65/ See Official Records of the Economic and Social Council, 1984, Supplement No. 6 (E/1984/16).

Bearing in mind that the possibility of the transfer of supervision of foreign offenders who have been conditionally sentenced or conditionally released might contribute to an increase in the use of alternatives to imprisonment also with respect to foreign offenders,

Being aware that the supervision in the offender's home country rather than the enforcement of the sentence in a country where the offender has no roots could contribute to an earlier and better re-integration into society,

Also bearing in mind that the formulation of a model agreement on the transfer of supervision of conditionally sentenced or conditionally released offenders was identified as a priority by the Committee on Crime Prevention and Control at its eighth session and by the preparatory meetings for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling previous work accomplished in this specific area,

1. Invites Member States to take further steps to improve the methods of international co-operation in criminal matters by considering the conclusion of agreements on the transfer of supervision of foreign offenders who have been conditionally sentenced or conditionally released;
2. Calls upon the Secretary-General to provide or facilitate the provision of professional advice and technical support at the request of Member States that are interested in establishing such proceedings;
3. Also calls upon the Secretary-General to encourage international collaboration in research with a view to the transfer of supervision of foreign offenders who have been conditionally sentenced or conditionally released, using, in particular, regional and interregional institutes for the prevention of crime and the treatment of offenders;
4. Requests the Committee on Crime Prevention and Control to study this subject and to consider the possibility of the formulation of a model agreement on the transfer of supervision of foreign offenders who have been conditionally sentenced or conditionally released with a view to submitting it to the General Assembly for consideration;
5. Also requests that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its preparatory meetings consider further these issues.

#### 14. Code of Conduct for Law Enforcement Officials

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

Recalling General Assembly resolutions 34/169 of 17 December 1979, 35/170 of 15 December 1980 and 39/118 of 14 December 1984,

Recalling also resolution 12 on the Code of Conduct for Law Enforcement Officials, adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Caracas from 25 August to

5 September 1980, 66/ the particular attention paid to questions relating to the dissemination of the Code, as well as the training of law enforcement officials, and the emphasis given by the Sixth Congress to the importance of the professionalization of law enforcement officials,

Noting the observations made by the Committee on Crime Prevention and Control at its eighth session, 67/

Noting also the recommendations of the Interregional Preparatory Meeting on the topic "Formulation and application of United Nations standards and norms in criminal justice", held at Varenna, Italy, from 24 to 28 September 1984, 68/

Acknowledging an increasing awareness among Member States of the principles embodied in the Code of Conduct for Law Enforcement Officials, 69/

Considering also that the work of law enforcement officials is a social service of great importance and that, therefore, there is a need to maintain and, whenever necessary, to improve their working conditions and status,

Bearing in mind that law enforcement officials have a vital role to play in the protection of human rights while carrying out their duties, and that some countries already have comparable principles of conduct embodied in their statutes and practices,

Also bearing in mind that the use of force and firearms by law enforcement officials should be commensurate with the due respect for human rights,

Recalling the concern expressed by Member States with regard to ensuring the dissemination of the Code of Conduct for Law Enforcement Officials and to establishing a set of guidelines for its more effective implementation,

Reaffirming General Assembly resolution 39/118 of 14 December 1984, in which the Assembly requested the Seventh Congress to give urgent attention to the matter of devising ways and means for ensuring more effective application of existing standards and to report thereon to the Assembly at its fortieth session,

1. Invites attention to the guidelines for the more effective implementation of the Code of Conduct for Law Enforcement Officials formulated at the meeting in Varenna; 70/

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66/ See Sixth United Nations Congress ..., chap. I, sect. B.

67/ See Official Records of the Economic and Social Council, 1984, Supplement No. 6 (E/1984/16), para. 52.

68/ See A/CONF.121/IPM/3.

69/ General Assembly resolution 34/169, annex.

70/ A/CONF.121/IPM/3, para. 36.

2. Invites Member States to inform the Secretary-General every five years, beginning in 1987, on the progress achieved in the implementation of the Code of Conduct for Law Enforcement Officials, including dissemination of the Code and incorporation of its principles in national legislation, and requests the Secretary-General to report thereon to the Committee on Crime Prevention and Control;
3. Appeals to all Governments to promote seminars and training courses on the role of law enforcement officials at the national and regional levels;
4. Requests the Secretary-General to provide to Governments, at their request, the services of experts and regional and interregional advisers to assist in implementing the Code;
5. Calls upon the Committee on Crime Prevention and Control to consider measures for more effective implementation of the Code;
6. Requests that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its preparatory meetings consider those issues.

15. Safeguards guaranteeing the rights of those facing the death penalty

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

Bearing in mind the provisions set out in article 2, paragraph 1, and articles 14 and 15 of the International Covenant on Civil and Political Rights and, in particular, those on the death penalty contained in article 6, 71/

Recalling General Assembly resolution 32/61 of 8 December 1977,

Welcoming Economic and Social Council resolution 1984/50 of 25 May 1984, to which the annex contains safeguards guaranteeing protection of the rights of those facing the death penalty,

1. Endorses the safeguards approved by the Economic and Social Council in its resolution 1984/50;

2. Invites all States retaining the death penalty and whose present standards fall short of the safeguards to adopt the safeguards and to take the necessary steps to implement them by:

(a) Incorporating or making provision for the safeguards in national legislation and regulations;

(b) Ensuring that judges, lawyers, police officers, prison officials and other persons, including military personnel who may be concerned with the administration of criminal justice, are familiar with the safeguards, and any corresponding provisions in national legislation and regulations, by including them in courses of instruction, by disseminating and publicizing them and by other appropriate means;

(c) Drawing the attention of persons facing the death penalty, and their representatives, to the safeguards and to any corresponding provisions in national legislation and regulations, and disseminating to the public those safeguards by all appropriate means;

3. Invites the General Assembly to request the criminal justice and human rights bodies of the United Nations to promote the safeguards and to take them fully into account in their work;

4. Requests intergovernmental organizations, including regional organizations, specialized agencies and other bodies within the United Nations system having responsibilities in the field of criminal justice and human rights, as well as the relevant non-governmental organizations, to promote the safeguards and to take them fully into account in their work;

5. Requests the Secretary-General of the United Nations:

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71/ General Assembly resolution 2200 A (XXI), annex.

(a) To use his best endeavours to ensure as far as possible the effective implementation of the safeguards in all States;

(b) To include a statement on the implementation of the safeguards in the quinquennial reports on capital punishment submitted to the Economic and Social Council, in accordance with Council resolution 1745 (LIV) of 16 May 1973;

(c) To bring the text of the safeguards and of the mechanism for their implementation to the attention of all States, the General Assembly, the appropriate intergovernmental organizations, including regional organizations and specialized agencies, and other appropriate bodies within the United Nations system, as well as non-governmental organizations;

(d) To disseminate and publicize widely the safeguards and the mechanism for their implementation, and to publish the texts in as many languages as possible.

16. Reduction of the prison population, alternatives to imprisonment, and social integration of offenders

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

Recognizing anxiety in many countries at the level of crime, and the importance of finding effective measures to provide reassurance and protection,

Welcoming the attention which Member States have given to preventive measures and to an increasing range of non-custodial sanctions, which have been found effective and acceptable to the public,

Emphasizing that non-custodial sanctions are a more humane way of facilitating rehabilitative efforts in relation to sentenced individuals,

Bearing in mind that the restriction on liberty and the possibility of encroachments on fundamental rights may be substantial even in the case of penal sanctions applied in the community,

Aware of the general undesirability of holding accused persons awaiting trial for long periods and of sentencing petty offenders to prison,

Recalling the draft United Nations Standard Minimum Rules for the Administration of Juvenile Justice, which recommend the avoidance of institutionalization to the greatest extent possible, 72/ and the report of the Secretary-General on alternatives to imprisonment and measures for the social resettlement of prisoners, 73/

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72/ See A/CONF.121/14 and Corr. 1, chap. II. For the Rules as adopted by the Seventh Congress, see sect. C.1 above.

73/ A/CONF.121/13 and Add.1.

Aware also of research studies which indicate that in various countries increases in the number and length of prison sentences do not have a significant effect on the deterrence of crime, and believing that deterrence is more effectively achieved by the certainty and rapidity of detection,

Recognizing that the increasing prison population and the prison overcrowding existing in many countries are factors which may create difficulties in the observance of the Standard Minimum Rules for the Treatment of Prisoners, 74/

Recalling with appreciation the work of the previous United Nations congresses in those areas and Economic and Social Council resolution 1984/46 of 25 May 1984, in which the Council encouraged Member States to increase their efforts in order to overcome obstacles to the greater use of non-custodial sanctions,

1. Recommends that Member States should further increase their efforts to reduce the negative effects of imprisonment;

2. Recommends to Member States, therefore, that they should intensify the search for credible non-custodial sanctions, which would serve to achieve a reduction in the prison population;

3. Invites Governments to continue reporting to the Secretary-General every five years on developments in those areas;

4. Calls upon the Committee on Crime Prevention and Control to examine the question of non-custodial sanctions and measures for the social integration of offenders, taking into account, inter alia, the following:

(a) Imprisonment should be imposed only as a sanction of last resort, taking into account the nature and gravity of the offence, and the legally relevant social conditions and other personal circumstances of the offender. In principle, imprisonment should not be imposed on petty offenders;

(b) Due regard should be paid to the requirements of public safety;

(c) In no case should the use of alternatives interfere with, or delay, efforts towards depenalization and decriminalization;

(d) When non-custodial sanctions are introduced, they should, in principle, be used as real alternatives to imprisonment, not in addition to it;

(e) The general public should be better informed of the importance and advantages of non-custodial sanctions, compared with imprisonment;

(f) Efforts should be made to avoid as far as possible the use of imprisonment imposed because of the non-payment of fines in countries where imprisonment on those grounds is possible under the law, in particular by ensuring that (i) fines are proportionate to the offender's ability to pay, (ii) before a person is imprisoned for non-payment, the circumstances are fully taken into account and (iii) instead of imprisonment, non-custodial sanctions could be applied;

(g) The use of alternatives to imprisonment must be co-ordinated with the competent social services in facilitating, if needed, the social resettlement of the offender;

(h) When alternatives to imprisonment are applied, care must be taken to ensure adequately legal and judicial guarantees in the application, management and supervision of the alternative measures;

(i) The management of alternative measures and the supervision of the convicted offenders must be carefully designed; it should also use the voluntary help of members of the public, provided that those have been carefully selected and adequately prepared;

5. Requests the Committee on Crime Prevention and Control to encourage the United Nations regional and interregional institutes on the prevention of crime and the treatment of offenders to strengthen their programmes so as to:

(a) Develop effective non-custodial sanctions and measures for the social integration of offenders, and limitations on the use of imprisonment;

(b) Give all possible assistance to Member States in undertaking research on the effectiveness of a problem-solving approach to crime prevention, on non-custodial sanctions and on obstacles to the reduction in the use of imprisonment;

6. Requests the Committee on Crime Prevention and Control to consider those problems, and requests the Secretary-General to prepare a report to assist the Committee in its deliberations;

7. Also requests the Committee on Crime Prevention and Control to submit to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders proposals for further action on this topic;

8. Requests that the Eighth Congress on the Prevention of Crime and the Treatment of Offenders and its preparatory meetings further consider those issues.

#### 17. The human rights of prisoners

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

Calling attention to the provisions of the Universal Declaration of Human Rights, 75/ the International Covenant on Civil and Political Rights, 76/ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 77/ the International Convention on the Elimination of All Forms of

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75/ General Assembly resolution 217 A (III).

76/ General Assembly resolution 2200 A (XXI), annex.

77/ General Assembly resolution 39/46.

Racial Discrimination, 78/ the Standard Minimum Rules for the Treatment of Prisoners 79/ and other relevant international instruments which deal, inter alia, with various aspects of the status of prisoners,

Bearing in mind that, in the report of the Interregional Preparatory Meeting held in Varenna, Italy, from 24 to 28 September 1984, 80/ the importance of the rights of prison inmates was recognized and that it was recommended that the Secretariat should continue to study them,

Conscious of the discussions that have been going on for some time in the Sixth Committee of the General Assembly on the Draft Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, 81/

Recommends that the General Assembly should finalize, as soon as possible, the work on the Draft Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, paying due attention to any constructive proposals which may be made to it to that effect.

#### 18. Role of lawyers

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

Considering that a fair and equitable system of administration of justice and the effective protection of rights and freedoms of citizens depend on the contribution of lawyers and of the judiciary,

Considering also that the role of lawyers and of the judiciary mutually complement and support each other as integral parts of the same system of justice,

Recognizing that adequate protection of the rights of citizens requires that all persons have effective access to legal services provided by the lawyers who are able to perform effectively their proper role in the defence of those rights, and to counsel and represent their clients in accordance with the law and their established professional standards and judgement without any undue interference from any quarter,

Aware that bar associations and other professional associations of lawyers have a vital role and responsibility to strive to protect and defend their members against improper restrictions or infringements, as well as to uphold their professional ethics,

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78/ General Assembly resolution 2106 A (XX), annex.

79/ Human Rights: A Compilation of International Instruments ..., sect. G.29.

80/ A/CONF.121/IPM/3.

81/ A/C.6/39/L.10, annex.

Believing that the legal profession must serve all sections of society and that bar associations have a responsibility to co-operate in making available the services of lawyers to all those in need of them,

1. Recommends that Member States should provide for protection of practising lawyers against undue restrictions and pressures in the exercise of their functions;
2. Requests the Secretary-General to provide interested Member States with all the technical assistance needed to attain the objective described above;
3. Also requests the Secretary-General to encourage international collaboration in research and in the training of lawyers, using, in particular, regional institutes for the prevention of crime and the treatment of offenders;
4. Requests the Committee for Crime Prevention and Control to study this question taking into account the work already done and to prepare a report on the role of lawyers;
5. Requests that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its preparatory meetings further consider those issues.

#### 19. Youth, crime and justice

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

Taking into account that unemployment, low standards of living, illiteracy, inadequacy of education in the family, at school and at vocational training institutions, and other manifestations of social injustice, such as racial and national discrimination, are factors influencing juvenile crime,

Noting that the strategic focus of the struggle against juvenile crime must be the prevention of criminal conduct,

Considering that success in the prevention of juvenile crime may be achieved by neutralizing the negative effect of the above-mentioned factors and conditions which contribute to juvenile crime and by removing them altogether,

1. Calls upon all States Members of the United Nations to take all measures in their power to eliminate such conditions in the life of young persons as illiteracy, unemployment, racial and national discrimination and other forms of social inequality;
2. Suggests that all States should, as part of the process of economic and social development, take all measures in their power for the proper upbringing and education of youth and for providing young people with work;
3. Considers it necessary to emphasize the need for the implementation of those measures on behalf of all young people and, above all, of young persons in those groups and strata of the population which, because of their economic and social status, particularly require this;

4. Recommends that the public should be more widely involved in educational-preventive work among juveniles;

5. Calls upon all States to adopt multifaceted and effective measures to limit opportunities for young persons to use alcohol and narcotic substances, as well as to protect young persons from the adverse influence of the cult of violence, cruelty and amoral behaviour;

6. Proposes an expansion at the regional and interregional levels of scientific research into the causes of juvenile crime, the ways and means of eliminating those causes, the active dissemination of the knowledge acquired regarding the nature of juvenile crime, its causes and the ways of eliminating them on a social basis as a strategic focus of the prevention of juvenile crime;

7. Invites the Economic and Social Council to consider the question of economic and social approaches to the prevention of juvenile crime in the general context of measures to combat and prevent crime.

## 20. Research on youth, crime and juvenile justice

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

Recalling the Caracas Declaration adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and, in particular, its affirmation that "Crime prevention and criminal justice should be considered in the context of economic development, political systems, social and cultural values and social change, as well as in the context of the new international economic order", 82/

Recalling also the endorsement which the Caracas Declaration gave to research by stating that "there is a need to promote scientific research, taking into account the particular circumstances and priorities of each country or region", 83/

Bearing in mind the approval extended by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to the report of the Working Group of Committee I of the Congress, in which the Working Group stated it was in general agreement with, inter alia, the need "To initiate and develop further research and analysis on the interrelationship between crime and specific socio-economic issues, for example, employment, migration, urbanization and industrialization, and socio-cultural issues, such as the role of the family and schools in education, taking into account diversities in national situations and drawing upon national and regional experiences", 84/

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82/ Sixth United Nations Congress ..., chap. I, sect. A, Caracas Declaration, para. 1 (2).

83/ Ibid., para. 1 (4).

84/ Ibid., chap. I, sect. C.3, para. (2).

Noting that, in identifying a similar need for research and analysis, the New Delhi Consensus on the New Dimensions of Criminality and Crime Prevention in the Context of Development, adopted by the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic 1 of the Congress, recommended that "the United Nations should continue to strengthen its research capacity", 85/

Recalling Economic and Social Council resolution 1984/45 of 25 May 1984, by which the Council approved the proposal to organize a research workshop within the framework of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and thereby created an opportunity for scholars and research workers to make an enhanced contribution to the work of the Congress,

Noting with appreciation the report of the Secretary-General on "Research in juvenile delinquency", 86/

Noting with satisfaction the invaluable contribution made by the United Nations Social Defence Research Institute, as well as by the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the Arab Security Studies and Training Centre and other international and regional organizations and centres, to the growing international and national recognition of the central importance of action-oriented research as an effective instrument for the formulation and implementation of policies for crime prevention and control,

Noting also with appreciation the results of the Research Workshop on perspectives in action-oriented research: youth, crime and juvenile justice, held on 27 and 28 August 1985 within the framework of the Seventh Congress, including the Workshop's recommendation to the Congress, 87/

1. Adopts the "Principles, guidelines and priorities with respect to research on youth crime" set out in the annex below;
2. Invites the Economic and Social Council to request the Committee on Crime Prevention and Control to take appropriate action at its next session for the effective implementation of the "Principles, guidelines and priorities" at the international, regional, sub-regional and national levels;
3. Recommends to the Economic and Social Council that it should invite the General Assembly, as well as the interested States Members of the United Nations and members of the specialized agencies, to ensure funding of the research activities of the United Nations interregional and regional institutes dealing with the prevention of crime and the treatment of offenders, taking into account also the new dimensions of criminality;

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85/ A/CONF.121/IPM/5, p. 3, para. 7 (b).

86/ A/CONF.121/11.

87/ A/CONF.121/C.2/L.3.

4. Requests the Secretary-General to ensure that the funding agencies and programmes of the United Nations system are adequately mindful of the relevance to economic and social development of progress in crime prevention and criminal justice and to pay due regard to this linkage in the programming of their activities;

5. Recommends to the Economic and Social Council that it should invite the General Assembly to reaffirm the urgent need to establish, with the assistance of the existing United Nations specialized units, an African regional United Nations institute for appropriate research activities and related operational actions in order to develop further the United Nations regional coverage in the field of crime prevention and criminal justice;

6. Invites the Economic and Social Council to request the Committee on Crime Prevention and Control to prepare, for approval by the Council, a proposal for the organization and preparation of research workshops to be convened as integral parts of the programme of future United Nations congresses on the prevention of crime and the treatment of offenders;

7. Requests the Secretary-General to report to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the implementation of the present resolution.

#### ANNEX

##### Principles, guidelines and priorities with respect to research on youth crime

1. Prior to the development of specific strategies on youth crime, the nature and purpose of research must be clearly recognized and definitional issues, in both a legal and social context, should be clarified.

2. It should be recognized that action-oriented research has a central and indispensable role to play in the design and implementation of specific strategies on youth crime and juvenile justice.

3. The initial priority of research is to advance the overall understanding of the phenomenon in its socio-legal context, realizing that there is a direct link between understanding and the formulation of preventive policies.

4. In the light of that link, it is necessary to analyse and evaluate the various existing relationships between research and policy-making processes with a view to recommending such changes as may be necessary.

5. Sound research should develop from appropriate theories in a culturally-relevant framework, and requires the support of a solid, reliable and accurate information base.

6. For research to be action-oriented and effective, it should:

6.1 Be defined, designed and targeted in relation to problems which confront the community, the policy-makers and practitioners of a particular socio-legal system;

- 6.2 Create intellectual conditions which enable analysis and rational problem-solving in a continuum;
  - 6.3 Be cognizant of the social relativity of culturally-specific crime-prevention strategies and be able to assess their preventive potential;
  - 6.4 Appreciate that policy-makers and practitioners should participate in the research process from its inception, in order to assist in the accumulation of information, to participate in the development of the research process, to facilitate its interpretation and to utilize research findings, as a complementary endeavour of all the parties concerned;
  - 6.5 Produce results which can immediately be disseminated in a form which has direct relevance to policy-makers and has the potential to stimulate further action-oriented research;
  - 6.6 Be amenable to evaluation in terms of its ultimate influence on policy development.
7. Research on crime, including youth crime, should be undertaken in the context of socio-economic development and change with special attention being paid to the complex multifaceted relationship between:
- 7.1 Rates and directions of change in social structure, which may include urbanization, migration, modes of production and distribution, socio-economic status, family structure and crime in general, as well as specific categories of crime;
  - 7.2 Changes in values, and regulatory and control mechanisms, reflected in patterns of socialization, education, morals, religion, ideologies and law as each relates to crime.
8. Greater co-ordination, exchange of information between countries, as well as technical co-operation between developed and developing countries and among developing countries in the field of crime prevention and control, would provide a better understanding of the phenomena not only from mono-cultural, but also from inter-cultural and cross-cultural perspectives, and would therefore enhance the effectiveness of policy measures.
9. With reference to contemporary crime problems in individual countries, the following areas of research and intervention appear to be especially important:
- 9.1 Drug trafficking, drug abuse and their relationship with youth crime;
  - 9.2 Violent crime involving juveniles;
  - 9.3 Street children and deviance with special emphasis on preventive programmes;
  - 9.4 Female juvenile delinquency;
  - 9.5 Marginal groups of juveniles;

- 9.6 Models and methods of control processes and treatment of young offenders;
- 9.7 Provision of education and training skills and techniques essential to the exercise and implementation of research;
- 9.8 Promotion of information and data collection methodologies and programmes, and the systematic dissemination of such information;
- 9.9 Further strengthening of research and consultancy capacities in developing countries.

21. Development of standard minimum rules for the protection of juveniles deprived of their liberty

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

Having adopted the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 88/

Recalling that the Standard Minimum Rules for the Administration of Juvenile Justice state that the placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period,

Aware that those Rules do not fully address the conditions in which juveniles deprived of their liberty are detained,

Having in mind the large number of juveniles in penal and other closed correctional institutions throughout the world,

Recognizing that juveniles have the right to benefit from special measures and protection designed to meet their specific needs, and that, deprived of their liberty and being particularly vulnerable, they require such protection on a priority basis during and after the period when they are deprived of their liberty,

Recognizing further that the Standard Minimum Rules for the Treatment of Prisoners, 89/ although having some applicability to institutions for young people, specifically state that they do not seek to regulate such institutions,

1. Recommends that the Committee on Crime Prevention and Control should be requested to develop standard minimum rules for the treatment of juveniles deprived of their liberty;

2. Recommends that the Secretary-General should report to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the progress achieved in the formulation of the proposed standard minimum rules for the treatment of juveniles deprived of their liberty;

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88/ A/CONF.121/14 and Corr.1, chap. II; see also C.1 above.

89/ Human Rights: A Compilation of International Instruments ..., sect. G.29.

3. Also recommends that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its preparatory meetings should consider those issues as a matter of priority.

## 22. Crime prevention in the context of development

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

Bearing in mind the Caracas Declaration, unanimously adopted by the Sixth United Nations Congress on Crime Prevention and the Treatment of Offenders, 90/

Reiterating once again that the problem of crime is an impediment to progress towards the achievement of an adequate quality of life for all persons,

Alarmed at the increase and gravity of crime in many parts of the world, with its negative effects on social progress,

Noting that, through its social interactions, crime is damaging to the all-round development of the world's nations and to peace and justice, and that its reduction represents an indispensable condition for the full enjoyment of human rights and the fundamental freedoms of individuals and peoples,

Taking note of General Assembly resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974, containing the Declaration and the Programme of Action on the Establishment of a New International Economic Order,

Taking into account General Assembly resolution 36/133 in which the Assembly declared inter alia, that the right to development is an inalienable human right and, taking note that other forums of the United Nations have expressed that equality of opportunity for development is a prerogative both of nations and of the individuals who comprise them,

Bearing in mind that the ultimate objective of development is the steady enhancement of the welfare of the entire population based on the full participation of the people in the development process and on the equitable distribution of the benefits that flow therefrom,

Aware that any policy of crime prevention and the treatment of offenders must accord the highest priority to the full realization of the development of the peoples,

Emphasizing that the basic crime prevention strategy must seek to eliminate the causes and conditions that favour crime, in close co-operation with the competent national and international bodies while fully respecting their mandates, and bearing in mind that racial discrimination, including apartheid, unemployment, illiteracy and the deterioration of living conditions in certain regions of the world, in particular with regard to the grave economic situation confronting African and many other countries, and any form of violation of human rights and fundamental freedoms constitute especially negative factors in this respect,

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90/ Sixth United Nations Congress ..., chap. I, sect. A.

Bearing in mind the social implications of the heavy burden of external indebtedness on the peoples of Africa, Asia and Latin America, calling for intensified efforts by all concerned parties, including the competent international institutions, to find the needed solutions,

Considering that programmes of crime prevention and the treatment of offenders must be grounded in the political, economic, social and cultural realities of each country and implemented in a climate of freedom and respect for human rights, and that it is essential that Member States develop an effective capacity for the formulation and planning of crime prevention policies in co-ordination with their strategies for economic, political, social and cultural development,

1. Reaffirms that crime prevention and the treatment of offenders must be examined within the context of socio-economic and political systems, social and cultural values, and social change;

2. Reaffirms the need for increased efforts of the international community and the Member States, in the context of a new international economic order and with the aim of promoting the International Development Strategy for the Third United Nations Development Decade 91/ in order to avoid adverse consequences in regard to the economic and social situation for crime prevention, the full achievement of human rights and an adequate development of nations;

3. Deplores the increase and gravity of crime in different parts of the world;

4. Calls upon the States Members of the United Nations to take all measures within their power to eliminate conditions of life that degrade human dignity and are factors relevant to crime, including unemployment, poverty, illiteracy, racial discrimination, apartheid and social injustice;

5. Recommends that all States should promote the broadest possible participation of the people in political, social and other measures designed to prevent crime;

6. Reiterates once again that the international community must accord, or continue to accord, priority to the search for solutions in the area of crime prevention and must promote international co-operation on the basis of respect for the independence, sovereignty and territorial integrity of every State;

7. Requests that at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders there be an examination of the new dimensions of criminality in the context of development on the basis of the information provided by Member States on the results achieved as a consequence of the implementation of the resolutions and decisions of the Seventh Congress.

### 23. Criminal acts of a terrorist character

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

Deeply disturbed at the prevalence of actual or threatened violent attacks,

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91/ General Assembly resolution 35/56, annex.

and other concerted acts of violence against innocent persons, which are addressed in accepted international instruments,

Noting in particular the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963; 92/ the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, 93/ the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971, 94/ the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, concluded at New York on 14 December 1973, 95/ and the International Convention against the Taking of Hostages, concluded at New York on 17 December 1979, 96/

Noting also the conclusion reached at the Interregional Preparatory Meeting on the topic of "New dimensions of criminality and crime prevention in the context of development: challenge for the future", held at New Delhi from 22 to 26 April 1985, that terrorist activities, including kidnapping and murder, hijacking and the taking of hostages, and the destruction of property, seriously impair freedom and the political stability of communities, 97/

Recalling General Assembly resolutions 2551 (XXIV) of 12 December 1969, 2645 (XXV) of 25 November 1970 and 32/8 of 3 November 1977, in which, inter alia, the Assembly condemned acts of aerial hijacking or other interference with civil air travel through the threat or use of force,

Gravely concerned at the human, social and economic cost of such attacks, and the threat posed by such attacks to normal international intercourse, particularly in the areas of travel, commerce and diplomatic relations,

Bearing in mind the importance of safeguards and maintenance of basic rights under ordinary legal procedures and in conformity with international human rights standards,

1. Calls upon all States to take all necessary measures to ensure the full observance of the obligations contained in the relevant conventions to which they are parties, in particular the application of appropriate law enforcement measures under ordinary legal procedures, in conformity with international human rights standards;

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92/ United Nations, Treaty Series, vol. 704, No. 10106, p. 219.

93/ Ibid., vol. 860, No. 12325, p. 105.

94/ Ibid., vol. 974, No. 14118, p. 177.

95/ General Assembly resolution 3166 (XXVIII), annex.

96/ General Assembly resolution 34/146, annex.

97/ A/CONF.121/IPM/5, para. 68.

2. Invites all States that have not yet become parties to the relevant multilateral conventions to consider taking the necessary steps to do so in an expeditious fashion;

3. Urges all States to adopt legislation that, whenever necessary, will strengthen legal measures against those who commit violent acts encompassed by the present resolution, and to facilitate the exchange of information between States in order to improve the abilities of Governments to prevent violence, to safeguard their citizens and to respond more effectively in cases of offences contemplated in the relevant multilateral conventions;

4. Urges all States to facilitate, to the fullest extent possible, the effective application of law enforcement measures with respect to those who commit the violent acts encompassed by the present resolution, to rationalize their extradition procedures and practices and other co-operative arrangements with their respective legal processes, and to avoid inappropriate exceptions;

5. Calls upon all States to take steps to strengthen co-operation, particularly in the areas of extradition and mutual legal assistance, with a view to increasing the effectiveness of law enforcement measures in cases of offences contemplated in the relevant multilateral conventions;

6. Calls upon all States to take all appropriate measures, as recommended by the International Civil Aviation Organization and as set forth in the relevant international conventions, to prevent violent attacks against civil aviation transport and its facilities, and to take all appropriate measures to prevent violent attacks against other forms of public transport, such as civil maritime transport;

7. Encourages the International Civil Aviation Organization to continue its efforts aimed at promoting universal acceptance of and strict compliance with the international air security conventions and to strengthen measures aimed at suppressing acts of unlawful interference with civil aviation;

8. Requests that the Committee on Crime Prevention and Control consider the development of recommendations for international action to strengthen law enforcement measures, including extradition procedures and other arrangements for legal assistance and co-operation, with respect to offences encompassed by the present resolution.

24. Expression of thanks to the people and Government of Italy

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

Having met in Milan from 26 August to 6 September 1985 at the invitation of the Government of Italy,

1. Expresses its profound gratitude to the President of the Republic, the people and the Government of Italy, the Italian Inter-Ministerial Organizing Committee, the authorities of the region of Lombardy, and the civic authorities of Milan for their warm and generous hospitality and for the excellent facilities

provided, and to the Centro Nazionale di Prevenzione e Difesa Sociale for its outstanding scientific and organizational contribution to the preparations for the Congress;

2. Notes with great satisfaction the adoption of the Milan Plan of Action 98/ and requests the Secretary-General of the United Nations to ensure that the Plan receives the widest possible circulation and publicity and to prepare proposals for its implementation.

#### Decision

##### Credentials of the representatives to the Congress

At its 13th plenary meeting, on 6 September 1985, the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders approved the report of the Credentials Committee (see chap. IV, sect. D below).

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98/ See sect. A above.

Part two

BACKGROUND TO THE CONGRESS

## Chapter II

### ORIGINS OF AND PREPARATIONS FOR THE CONGRESS

2. The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders was convened in accordance with paragraph (d) of the annex to General Assembly resolution 415 (V) of 1 December 1950, which provided for the convening every five years of an international congress in this field. 99/

3. The Economic and Social Council, in its resolution 1982/29 of 4 May 1982, requested the Secretary-General to take all necessary measures to ensure the successful undertaking of the preparatory activities for the Seventh Congress as well as the success of the Congress itself, including the convening of the regional preparatory meetings and interregional meetings of experts in 1983 and 1984, and the appointment of experts and consultants to assist in the preparation of the documentation for the Congress. In addition, the General Assembly, in its resolution 39/112 of 14 December 1984, requested the Secretary-General to ensure that the substantive and organizational work of the Congress was fully adequate for its successful outcome.

4. Regional Preparatory Meetings were held in 1983 at Sofia from 6 to 10 June, with the Government of Bulgaria acting as host; at Bangkok from 4 to 8 July, in co-operation with the Economic and Social Commission for Asia and the Pacific; at the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, San José, Costa Rica, from 10 to 14 October, in co-operation with the Economic Commission for Latin America and the Caribbean; at Addis Ababa, from 28 November to 2 December, in co-operation with the Economic Commission for Africa; and at Baghdad, from 12 to 16 December, in co-operation with the Economic Commission for Western Asia. 100/

5. Five Interregional Preparatory Meetings to discuss in depth the substantive aspects of the topics to be considered by the Congress were convened at Beijing from 14 to 18 May 1984, with the Government of China acting as host; at Budapest, from 4 to 8 June 1984, with the Government of Hungary acting as host; at Ottawa from 9 to 13 July 1984, with the Government of Canada acting as host; at Varenna, Italy, from 24 to 28 September 1984, with the Government of Italy acting as host; and at New Delhi from 22 to 26 April 1985, with the Government of India acting as host. 101/

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99/ The first six Congresses were held at Geneva in 1955, in London in 1960, at Stockholm in 1965, at Kyoto in 1970, at Geneva in 1975 and at Caracas in 1980. The reports of those Congresses were issued as United Nations publications, Sales Nos. E.56.IV.4, E.61.IV.3, E.67.IV.1, E.71.IV.8, E.76.IV.2 and corrigendum and E.81.IV.4, respectively.

100/ For the reports of the Regional Preparatory Meetings, see A/CONF.121/RPM/1-5.

101/ For the reports of the Interregional Preparatory Meetings, see A/CONF.121/IPM/1-5.

Part three

PROCEEDINGS OF THE CONGRESS

## Chapter III

### ATTENDANCE AND ORGANIZATION OF WORK

#### A. Date and venue of the Congress

6. The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders was held at Milan from 26 August to 6 September 1985, in conformity with the Economic and Social Council resolution 1984/154 of 25 May 1984.

#### B. Pre-Congress consultations

7. Pre-Congress consultations, open to the participation of all States invited to the Congress, were held on 24 and 25 August 1985 at Milan, to consider a number of procedural and organizational matters. The Congress considered a report on the consultations at its 2nd plenary meeting (A/CONF.121/L.1) and endorsed the recommendations contained therein, which served as a basis for its decisions on those matters.

#### C. Attendance

8. The following States were represented at the Congress: Afghanistan, Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Benin, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Costa Rica, Cuba, Czechoslovakia, Democratic Yemen, Denmark, Djibouti, Dominican Republic, Egypt, Ethiopia, Finland, France, Gabon, Gambia, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Haiti, Holy See, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Liechtenstein, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Somalia, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia, and Zimbabwe.

9. The following national liberation movements were represented by observers: African National Congress of South Africa (ANC), Pan African Congress of Azania (PAC).

10. The following United Nations offices and organs were represented by observers: Economic Commission for Africa, Economic Commission for Western Asia, Economic and Social Commission for Asia and the Pacific, United Nations Centre for Human Rights, Division of Narcotic Drugs, United Nations Fund for Drug Abuse Control, United Nations Information Centre (Rome), United Nations Institute for Namibia, United Nations University, United Nations Social Defence Research Institute, Helsinki Institute for Crime Prevention and Control (affiliated with the

United Nations), United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders.

11. The following United Nations bodies were represented by observers: United Nations Conference on Trade and Development and the United Nations Development Programme.

12. The following intergovernmental organizations were represented by observers: Acuerdo Sudamericano Sobre Estupefacientes y Psicotropicos, Arab Security Studies and Training Center, Council of Arab Ministers of the Interior, Council of Arab Ministers of Justice, Council of Europe, International Criminal Police Organization, League of Arab States, Organization of African Unity, Pan Arab Organization for Social Defence.

13. The following non-governmental organizations were represented by observers: Academy of Criminal Justice Sciences, African Institute of International Private Law, American Correctional Association, All Pakistan Women's Association, Amnesty International, Arab Lawyers' Union, Bahá'í International Community, Brahma Kumaris World Spiritual University, Commission of Churches on International Affairs (World Council of Churches), Defence for Children International Movement, Friends World Committee for Consultation, Howard League for Penal Reform, International Alliance of Women, International Association Against Torture, International Association of Chiefs of Police, International Association of Judges, International Association of Juvenile and Family Court Magistrates, International Association of Penal Law, International Catholic Child Bureau, International Centre of Sociological, Penal and Penitentiary Research and Studies, International Commission of Jurists, International Committee of the Red Cross, International Council of Women, International Council on Alcohol and Addictions, International Federation for Human Rights, International Federation of Senior Police Officers, International Federation of Women in Legal Careers, International Halfway House Association, International Institute of Humanitarian Law, International Islamic Federation of Student Organizations, International Juridical Organization, International League for Human Rights, International Penal and Penitentiary Foundation, International Prisoners Aid Association, International Probation Organization, International Social Service, International Society for Research on Aggression, International Society for Criminology, International Society of Social Defence, International Union of Police Federations, International Youth and Student Movement for the United Nations, Irish Council of Churches, Italian Centre of Solidarity, Italian Federation of Business and Professional Women (affiliated with the International Federation of Business and Professional Women), Liberal International, Lutheran World Federation, Medical Women's International Association, The Methodist Church - Great Britain, Prison Fellowship International, The Salvation Army, Scandinavian Research Council on Criminology, Soroptimist International, Union of Arab Jurists, World Alliance of Reformed Churches, World Assembly of Youth, World Federation for Mental Health, World Movement of Mothers, and World Society of Victimology.

#### D. Opening of the Congress and election of the President

14. The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders was officially opened, on behalf of the Secretary-General of the United Nations, by the Secretary-General of the Seventh Congress,

Mrs. Leticia R. Shahani, Assistant Secretary-General for Social Development and Humanitarian Affairs.

15. The Under-Secretary-General for International Economic and Social Affairs read out a statement addressed by the Secretary-General to the Congress. The Secretary-General expressed his sincere thanks to the Government and people of Italy for generously serving as host for the Seventh Congress. He commended the leading role played by the Government of Italy in the development of modern criminology and the country's sincere commitment to the evolution of enlightened and effective policies for crime prevention, one of the major goals of the United Nations, which is the creation of an environment that will give a sense of security to individuals and nations alike.

16. The Secretary-General stressed that the Congress could make an important contribution to the advancement of international co-operation in a field which encompasses the interests of all States, which acquires added significance in this fortieth anniversary of the founding of the United Nations. He emphasized that, as societies changed, as means of communications became more accessible, as new economic activities evolved and as technology expanded, sophisticated forms and new dimensions of criminality also emerged which demanded urgent attention. As the twentieth century draws to a close, the world is confronted with a deepening crisis of violence and crime, a flaunting of the law in many areas, on the one side, or its misuse for oppression rather than as an instrument of equity, on the other.

17. He stated that, although 37 years had elapsed since the adoption of the Universal Declaration of Human Rights, the most elementary rights continued to be violated in many parts of the world and, in many instances, on a massive scale. The world continued to witness arbitrary and summary executions, involuntary disappearances and torture, denial of justice, as well as the denial of the rights of victims of crime. At the same time, the world is horrified by the eruption of terrorism and other forms of crime perpetrated on land, in the air and on the high seas.

18. The Secretary-General stressed that it had become apparent that order, civility and even public life were under serious threat in many parts of the world, that the toll of innocent victims was staggering, and that some of the most heinous forms of crime operated across national frontiers. The transnationalization of crime was particularly evident in the problems of illicit drug trafficking and drug abuse, which were causing so much misery, loss and even death.

19. The Secretary-General stated that the evolution of the nature and focus of the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders reflected the growing realization of the close interrelationship between the problems of criminality and the pressing concerns of development and the promotion of human rights. Policy options to deal with the broader issues of social justice as a framework for criminal justice were still to be formulated. He also stated that the Caracas Declaration, adopted by the Sixth Congress, 102/ traced the broad outlines of the framework within which crime prevention should proceed. The future course to be considered by the Seventh Congress should fill out that outline by putting forth basic principles and concrete measures whereby the potential for constructive and social peace could be fully realized.

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102/ Sixth United Nations Congress ..., chap. I, sect. A.

20. In conclusion, the Secretary-General emphasized that, if the Congress were to achieve a measure of success, the strategy should be aimed at promoting forward-looking policies for crime prevention through the concerted action of all ministries in national Governments and of the agencies concerned, both intersectorally and sectorally. Indeed, the co-operation of all elements represented here - Governments, non-governmental organizations, the scientific community and international agencies - was necessary for that endeavour to succeed.

21. The Congress was addressed by the Honourable Bettino Craxi, President of the Council of Ministers of Italy, who extended to all participants the greetings of the Government of Italy and his personal wishes for a successful Congress. Italy could offer the testimony of its difficult experience and its efforts in recent years. Italian society had undergone a profound and often convulsive development, involving changes in behaviour, value systems and the meaning of rules and regulations. Change, along with its positive influence, also produced deviant behaviour, opportunities for infringement of the law and less conventional and more complex problems of crime. Italian institutions had to face a growing criminality, whose mechanisms were not to be related to individuals, but rather to an organized structure guided by a corporate-like management. There was also the problem of corporate crime, generally international in character, often aiming at mercilessly exploiting the misery of people, as, for example, in the case of the illicit drug industry.

22. The President of the Council of Ministers recalled that, in such situations, Governments were tempted to respond to the growth and particular nature of organized crime with special measures, such as changes in legislation aimed at preventing and suppressing offences involving criminal association, integration of the justice system and the police force, the search for juridical instruments to fight the conspiracy of silence and the establishment of special law enforcement bodies. The Government of Italy had made its choices and had adhered to them even during the most difficult times. The administration of the justice system was still separated from the law enforcement system and great attention had been paid to the renewal, technological improvement and organizational development of both systems. Individual rights had continued to be fully reflected and safeguarded in the belief that a modern State was, first and foremost, a State which would protect and guarantee the basic rights of its citizens.

23. The President of the Council of Ministers concluded by noting that Italian society had defeated many attacks on its democratic stability by political terrorism. The victory of the State over terrorism and many gains in the fight against criminality were owing to the commitment of police officers and the judiciary, as well as to respect for the basic rights of citizens, constantly keeping in mind the principles of a democratic State and warding off any temptation to resort to "emergency" measures.

24. Following his election as President of the Congress, Mr. Mino Martinazzoli, the Italian Minister of Justice, delivered a brief address to the Congress. He stated that the complexity and sophistication of crime were increasing as society became more complex and, because of the economic interests involved, criminality was tending to become a transnational phenomenon. We were approaching the year 2000 in a climate of mounting insecurity.

25. Italy had experienced the scourge of terrorism, but had been able to curb and overcome violence with the weapons of the law, for only the force of law could

triumph over mindless violence directed against internal systems and international order.

26. The struggle against organized crime required greater cohesion and solidarity, coupled with the rejection of violence and terror regardless of the political intentions proclaimed and with respect for those ethical values that had marked the history of legal civilization, namely, well-established rules, the free presentation of arguments by both parties, the presence of an impartial and independent judge and the application of commensurate and non-brutal penal sanctions. It was only in this way that a just, severe, inflexible but humane response to crime could be provided.

27. In the country of Beccaria, the lesson had been learned that it was not enough to write those principles into the laws of States, but that it was essential that their value be recognized in the conscience of men and women.

28. In her opening statement, Mrs. Leticia R. Shahani, Secretary-General of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and Assistant Secretary-General for Social Development and Humanitarian Affairs, welcomed all participants and expressed appreciation and thanks to the Government and people of Italy, to the Italian Organizing Committees, to the Centro Nazionale di Prevenzione e Difesa Sociale of Milan, and to the authorities of the City of Milan and Province of Lombardy for the preparations made to host the Congress. Speaking of the quinquennial United Nations Congresses on the Prevention of Crime and the Treatment of Offenders, she drew attention to the increasing importance of those congresses as a global forum for the exchange of progressive and humanistic ideas and an effective mechanism for international action on the prevention of crime and the treatment of offenders.

29. After reviewing the history of United Nations crime congresses over the last 30 years, she stressed that there could be no crime prevention without commitment to and an appreciation of the importance of domestic peace and tranquillity. While the police were at the forefront of the task, there were other criminal justice administrators who, in their different capacities, worked for the sake of peace within society. The Secretary-General emphasized that, owing to the now recognized interrelationship between crime and development, the international community was committed to search continuously for more effective means of preventing, controlling and combating crime. The percentage of developing countries increasingly represented at the congresses testified to the importance of social, economic, cultural and political changes and to the impact of those changes on criminality. These changes posed new challenges for those who were concerned with combating and controlling crime and its new consequences. The Caracas Declaration, adopted by the Sixth Congress in 1980, very clearly emphasized the need to link crime prevention to development. The Seventh Congress, the theme of which was "crime prevention for freedom, justice, peace and development", represented an organic continuation and a concrete materialization of the work initiated at all of the previous United Nations congresses in this field and was a symbol of the goals to be achieved in the near future. That theme also brought a message to all peoples and nations of the world: we needed to formulate and implement effective strategies for crime prevention which would fulfil noble values and humane goals of freedom, justice, peace and development.

30. The Secretary-General of the Congress, shedding light on the substantive agenda items, stated that the most comprehensive and demanding of all the topics before the Congress was topic 1, entitled "New dimensions of criminality and crime

prevention in the context of development: challenges for the future". Many problems continued to menace the lives of people all over the world. For such phenomena as drug abuse, family violence, violence against women, economic and environmental crime, the infringement of fundamental human rights and other forms of victimization, there had not yet been a consolidated and global approach that would respond to those problems in a comprehensive and effective way. The elaboration of guiding principles was a primary task of the Seventh Congress with a view to providing a co-ordinated basis for action at the national, regional and international levels.

31. Turning to topic 2, entitled "Criminal justice processes and perspectives in a changing world", she said the topic stressed the need for an integrated approach to criminal justice. In practice, the activities and operation of the various aspects of the criminal justice system, including the police, the courts and the correctional authorities, seemed to be compartmentalized, thus lacking coherent and consistent internal policies. New policies would need to respond adequately and realistically to the changing context within which the criminal justice system operated. She noted that part of topic 2 involved the question of the fair treatment of women by the criminal justice system. It had been recognized at the recent Nairobi Conference <sup>103/</sup> that violence against women had become a world-wide phenomenon and now required effective action to stop the degrading practices associated with it and to provide measures of redress.

32. Referring to topic 3 entitled "Victims of crime", she observed that victimization was a widespread problem which encompassed many aspects of economic and social life and which could be highly damaging, particularly to some vulnerable population groups. In spite of the fact that innovative approaches to compensation and assistance for many types of victims were being tried in many countries, problems relating to victims of large-scale criminal activities and abuse of power had not yet received adequate attention. Nor had there been sufficient attention given to women as victims of crime. The draft declaration to be considered by the Congress could be a major achievement in the alleviation of the plight of victims of crime.

33. Concerning topic 4, entitled "Youth, crime and justice", she stressed the need for its consideration within the framework of the goals and objectives of the International Youth Year (1985) so as to ensure the formulation of policies to help young men and women find their rightful place in society. The draft United Nations Standard Minimum Rules for the Administration of Juvenile Justice now before the Congress, was in that context one of the most important issues to be considered. With regard to topic 5, entitled "Formulation and application of United Nations standards and norms in criminal justice", she stressed the need to improve implementation of such standards and norms and to formulate new ones. She referred in particular to the guidelines on the independence of the judiciary and to the model agreement on the transfer of prisoners - two major instruments which were before the Congress for adoption.

34. In conclusion, the Secretary-General emphasized the need for effective

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<sup>103/</sup> See Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15 to 26 July 1985 (United Nations publication, Sales No. E.85.IV.10).

technical co-operation programmes in crime prevention and criminal justice. She noted that there was a large demand on the part of many countries for such co-operation, which indicated that Member States were increasingly looking for practical and effective solutions to complex and pressing issues in the area of crime prevention. Perhaps the Congress, looking forward to the 1990s, might provide a new and much needed orientation for increased technical co-operation. That was a major challenge before it. She also stressed the need for closer collaboration at the national level between Ministries of Justice, of Planning, of Foreign Affairs and of Bureaux of Police. Without such co-ordination, it would seem difficult to realize the concrete results that the Congress would hope to achieve. Decisions taken at the Congress should be followed up with appropriate authorities at the national level, so that action by the General Assembly and other United Nations bodies could provide the required international support for programmes in the field of crime prevention.

35. Finally, the opening ceremony was addressed by Mr. Minoru Shikita, Executive Secretary of the Seventh Congress, who reported on the preparatory activities carried out prior to the Congress. He recalled that five regional preparatory meetings for the Congress had been held in 1983, which had enabled the Secretariat to obtain the preliminary views of Governments as well as of numerous organizations. In addition, five interregional preparatory meetings, each of which focused on a substantive topic of the provisional agenda, were held in 1984 and 1985. Those meetings had reviewed in depth the relevant issues and had made important suggestions that had been integrated in the texts of various working papers submitted to the Congress.

36. With reference to the regional and interregional institutes, namely, the Helsinki Institute on the Prevention of Crime and the Treatment of Offenders affiliated with the United Nations (HEUNI) in Finland, the Latin American Regional Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) in San José, Costa Rica, the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), Tokyo, the United Nations Social Defence Research Institute (UNSDRI) in Rome, and the Arab Centre for Security Studies and Training in Riyadh, the Executive Secretary stated that their substantive contribution to the Seventh Congress had been outstanding. He also commended the contribution made by the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Centre for Human Rights.

37. With regard to the role of non-governmental organizations, the Executive Secretary said that scientific symposiums on three topics of the Congress had been jointly organized by the International Association of Penal Law, the International Society for Criminology, the International Society of Social Defence, the International Penal and Penitentiary Foundation and the International Institute for Higher Studies in Criminal Sciences in Syracuse, Italy, in close co-operation with the Centro Nazionale di Prevenzione e Difesa Sociale, and hosted by the Ministry of Justice of Italy. In addition, he stressed the invaluable contribution of the Alliance of Non-Governmental Organizations, both in New York and at Vienna.

#### E. Adoption of the rules of procedure

38. At its 1st plenary meeting, on 26 August 1985, the Congress adopted as its rules of procedure the provisional rules of procedure approved by the Economic and Social Council in its decisions 1979/25 of May 1979 and 1980/105 of 6 February 1980, as amended by decision 1985/134 of 29 May 1985 (A/CONF.121/2).

39. After the adoption of the rules of procedure, the President made the following statement:

"Without prejudice to the rules of procedure adopted by the Congress, my understanding is that this Congress should make every effort to attain consensus in all substantive matters."

#### F. Adoption of the agenda

40. At the same meeting, the Congress adopted as its agenda the provisional agenda approved by the Economic and Social Council in its resolution 1982/29 of 4 May 1982 (A/CONF.121/1). The agenda was as follows:

1. Opening of the Congress.
2. Organizational matters:
  - (a) Election of the President;
  - (b) Adoption of the rules of procedure;
  - (c) Adoption of the agenda;
  - (d) Organization of work;
  - (e) Election of officers other than the President;
  - (f) Credentials of representatives of the Congress;
    - (i) Appointment of the members of the Credentials Committee;
    - (ii) Report of the Credentials Committee.
3. New dimensions of criminality and crime prevention in the context of development: challenges for the future (topic 1).
4. Criminal justice processes and perspectives in a changing world (topic 2).
5. Victims of crime (topic 3).
6. Youth, crime and justice (topic 4).
7. Formulation and application of United Nations standards and norms in criminal justice (topic 5).
8. Adoption of the report of the Seventh Congress.

#### G. Organization of work

41. At its 1st plenary meeting, the Congress decided that items 1, 2, 3 and 8 would be considered in plenary meetings, items 4 and 7 would be allocated to Committee I and items 5 and 6 to Committee II.

42. At its 7th plenary meeting, on 29 August, it was decided to establish an open-ended working group, which would meet under the chairmanship of Mr. Gioacchino Polimeni of Italy to consider the draft guiding principles for crime prevention and criminal justice in the context of development and a new international economic order (A/CONF.121/19) and other related matters under agenda item 3.

#### H. Election of officers other than the President

43. At its 1st plenary meeting, the Congress elected by acclamation Yoshio Suzuki (Japan) Rapporteur-General, Hassan B. Jallow (Gambia) Chairman of Committee I, Manuel López-Rey y Arrojo (Bolivia) Chairman of Committee II, Jan Pjescak (Czechoslovakia) First Vice-President, and the following States as Vice-Presidents: Argentina, Botswana, Canada, China, Cuba, Egypt, Ethiopia, Finland, France, Germany, Federal Republic of, Guatemala, India, Indonesia, Mali, Poland, Saudi Arabia, Seychelles, Spain, Thailand, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Zaire. Those officers, together with the President, constituted the General Committee.

44. At its 11th plenary meeting, on 4 September, the Congress elected Chile as a Vice-President of the Congress.

45. The Congress noted the statement made by the representative of the Union of Soviet Socialist Republics objecting to the election of Chile.

46. At its first meeting, on 26 August, Committee I elected the following officers other than the Chairman: Dusan Cotić (Yugoslavia), Vice-Chairman; Ira D. Rowe (Jamaica), Rapporteur.

47. At its first meeting, on 26 August, Committee II elected the following officers other than the Chairman: Mustafa Kara (Libyan Arab Jamahiriya), Vice-Chairman; Richard Harding (Australia), Rapporteur.

#### I. Appointment of the members of the Credentials Committee

48. At its 11th plenary meeting, on 4 September 1985, the Congress, in accordance with rule 4 of its rules of procedure (A/CONF.121/2), appointed a Credentials Committee composed of the following States: Brazil, Chad, China, Cuba, Italy, Maldives, Sudan, Union of Soviet Socialist Republics and United States of America.

#### J. Implications of Congress decisions for the programme budget of the United Nations

49. At the 12th plenary meeting, on 5 September 1985, before the consideration of draft resolutions and other recommendations, the Secretary of the Congress stated that any provisions of those draft resolutions or recommendations that had implications for the programme budget of the United Nations would be brought to the attention of the General Assembly by the Secretary-General at the time when the Assembly considered the report of the Congress.

## Chapter IV

### CONSIDERATION OF AGENDA ITEMS IN PLENARY MEETINGS AND BY THE SESSIONAL BODIES AND ACTION TAKEN THEREON BY THE CONGRESS

#### A. Consideration of agenda item 3 in plenary meetings

#### New dimensions of criminality and crime prevention in the context of development: challenges for the future (topic 1)

##### Introduction

50. At its first plenary meeting, on 26 August 1985, the Congress allocated to the Plenary, in accordance with Economic and Social Council resolution 1984/45 of 25 May 1984, agenda item 3, entitled "New dimensions of criminality and crime prevention in the context of development: challenges for the future".

51. The Plenary considered item 3 at its 2nd to 14th meetings, from 26 to 6 September 1985.

52. For its consideration of the item, the Plenary had before it the following documents:

- (a) Report by the Secretariat on the Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies (A/CONF.121/18 and Corr.1);
- (b) Note by the Secretariat on the new guiding principles for crime prevention and criminal justice in the context of development and a new international economic order (A/CONF.121/19);
- (c) A working paper prepared by the Secretariat (A/CONF.121/20 and Corr.1);
- (d) Report by the Secretary-General on the implementation of the recommendations of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/40/482 and Corr. 1 and 2);
- (e) Report of the Interregional Preparatory Meeting (Meeting of Eminent Persons) for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic 1: New dimensions of criminality and crime prevention in the context of development: challenges for the future (A/CONF.121/IPM/5);
- (f) Note prepared by the Secretariat on the prevention and control of illicit drug trafficking (A/CONF.121/CRP.1).

53. The Executive Secretary of the Seventh Congress and Chief of the Crime Prevention and Criminal Justice Branch introduced item 3 and underlined the central role this topic was designated to play at the Congress, pursuant to Economic and Social Council resolution 1982/29 of 4 May 1982. This key position of the topic reflected, in an accurate way, the need felt by many Member States for the elaboration of more adequate and effective responses to the wide variety of radical changes occurring in the patterns and dynamics of crime in recent times.

54. He further indicated that, in this context, the word "new" did not merely apply to the characterization of new crimes, which were indeed rare, but also to the identification of new dimensions of old crimes, with which existing services had failed to cope and which, therefore, required the elaboration and implementation of new approaches.

55. These new dimensions had been identified by Member States at the five regional preparatory meetings for the Seventh Congress, and were further elaborated at the Meeting of Eminent Persons on topic 1. These preparatory meetings had identified national and international organized crime, national and transnational economic crimes, illicit drug trafficking and terrorism as some of the major sources of concern in view of their increasing sophistication and harmfulness.

56. Further, the Executive Secretary drew the attention of the Plenary to the draft Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, elaborated by the United Nations Committee on Crime Prevention and Control in pursuance of General Assembly resolutions 35/171 and 36/29, and approved by the Economic and Social Council for submission to the Seventh Congress. Those Guiding Principles opened a new era of regional and international co-operation, as was recognized by the Meeting of Eminent Persons in New Delhi in April 1985.

57. Many delegations which intervened in the discussion of this agenda item made statements often referring to the general theme of the Congress, and the prevailing situation regarding crime prevention and criminal justice in their countries, outlined current reforms being undertaken and emphasized main areas of priority concerns related to the topics of the Congress including the protection of fundamental human rights embodied in international instruments. Most delegates stressed the need for closer and more effective international co-operation in that respect with the active involvement of the United Nations.

#### 1. New dimensions of criminality

58. A wide variety of views was expressed on the nature of the linkages between crime prevention and criminal justice and socio-economic development. Several representatives pointed out that crime was not an inescapable consequence of development. Development was not criminogenic per se; in such cases where it was instrumental in improving overall social conditions by means of adequate redistributive mechanisms, it could be used as an instrument for the prevention of crime. It was haphazard or inadequately planned development which could have criminogenic implications. Comprehensive integrated and well-balanced development programmes had a definite crime preventive impact. In this connection, several delegations pointed out that there were long-term decreases of rates of crime in their countries as a result of socially oriented policies.

59. Crime was conceptualized as a social product, a phenomenon generated by a multiplicity of causes, among which, in the view of a number of delegations, economic factors played a major or even predominant role. Among those singled out were poverty, inequality, oppression, illiteracy and unemployment. Furthermore, the economic exploitation of the masses, whether in a colonial or post-colonial situation or as a result of racial discrimination, was identified as a determinant of criminality by some representatives. In that connection, some representatives pointed out that the economic situation facing the underdeveloped countries was currently deteriorating because of the effect of the external debt on their

economies and reiterated the need for the establishment of a new international economic order. It was emphasized that there was a need to eliminate all of the above-mentioned causes of criminality and to promote social justice.

60. Some representatives, on the other hand, considered that social and economic conditions did not entirely determine behaviour. Individuals should, therefore, remain accountable for their offences. In this connection, it was pointed out that emphasis should be increasingly placed upon the concept of duty, so as to provide a proper balance to the affirmation of rights. Moreover, although development certainly could not be considered as criminogenic in and of itself, there was no denying that technical progress provided more numerous opportunities for crime, as appeared to be the case with computers and other products of modern electronic technology. It was also pointed out by some delegations that increased welfare and improved standards of living did not automatically reduce crime, but on the contrary could provide new opportunities for criminal activities.

61. There was nearly complete agreement on the profoundly negative impact that criminality had upon socio-economic development. Crime was viewed as hampering development programmes in that it necessarily diverted and squandered scarce national economic and social resources, thereby preventing their optimal utilization and consequently obstructing the attainment of national goals. Its impact was particularly harmful and visible in developing countries, in which resources were limited. In those countries, national development programmes were being seriously hindered by the proliferation of economic crimes, such as embezzlement, fraud, smuggling, tax-evasion, and the misuse and illegal appropriation of State and public property, as well as by rampant corruption, bribery and abuses of economic power committed by certain national and transnational corporations.

62. For other delegations, alcoholism and drunkenness constituted a grave source of concern, particularly in so far as the deleterious effects of the abusive use of alcohol on the economy of many nations were undeniable and very costly, as exemplified by endemic absenteeism and low productivity. Moreover, it could not be ignored that a sizeable percentage of all offences were committed under the influence of alcohol, as was particularly the case in numerous acts of violence as well as many offences due to negligence, such as car accidents. For those and other reasons, radical measures for the reduction of the level of alcohol abuse were imperative. Finally, it should be mentioned that equally harmful, and also often related to the consumption of alcohol, were rowdiness, hooliganism and vandalism.

63. Furthermore, and as a result of mounting violence, fear of crime and feelings of insecurity were effectively undermining the foundations of social life and human solidarity, particularly in so far as they generated cynicism, opportunism and apathy, and provoked a loss of confidence in the capacity and willingness of the State to protect its subjects. Fear and insecurity had also, on some occasions, been at the root of a dangerous resurgence of racism as a scapegoat. Such an irrational reaction to mounting criminality had often resulted in hatred for and discrimination against certain minorities. That mechanism was proof, in the opinion of some delegations, that crime was also a serious threat to democracy and freedom.

64. The role of the criminal justice system was touched upon by several delegations. While some of these stressed the importance of the functioning of this system, others indicated that, although it was a necessary condition for

social and economic progress, it was not indispensable for that progress. Some delegations also expressed doubts about the crime preventive value of harsh sentences.

65. The spread of torture was singled out by some participants as a particularly alarming and abhorrent manifestation of a dehumanized and dehumanizing abuse of political power, since it was predominantly practised by public authorities or, at least, on their behalf and tolerated by them. In the opinion of some participants, torture inflicted by means of narcotics or other drugs should be fully equated with the better known forms of physical torture and, as such, should be emphatically denounced and condemned. In this connection, the urgent need for effective criminalization was mentioned.

66. Of particular concern for numerous countries were the growing activities of organized crime in many parts of the world. The multiple illicit operations carried out by those international criminal networks represented a major challenge to national law enforcement and to international co-operation, particularly since national boundaries no longer constituted an effective barrier against those criminal activities. Moreover, the activities of internationally organized crime often succeeded in evading the control of national jurisdiction, since organized crime often exploited the discrepancies in the legislation of different countries, and thus achieved a considerable degree of impunity.

67. Among the manifold illegal operations of organized crime, the illicit traffic with narcotic drugs represented a source of the gravest concern and preoccupation. The deleterious impact of drug abuse on health and social integrity had become a major problem for many countries, and was inflicting great harm on young people, compromising both their physical and spiritual well-being. Furthermore, several representatives pointed to the criminality that existed in their countries, which were being used as transit points for the transportation of drugs.

68. Corrupt practices compounded the difficulties inherent in the prevention and control of such international crimes. Some delegations mentioned the role played by aliens in illicit drug traffic. There were, however, some countries for which drug trafficking and drug abuse did not constitute a major problem, at least for the moment. Some delegations indicated that drug addiction was promoted, in some cases, for the purpose of establishing and maintaining vast prostitution networks that were ruthlessly managed by organized crime. It was further asserted that a higher frequency of crime was the result of the need to sustain drug addiction. Thus, drug addiction was at the origin of many offences.

69. In further discussing the question of illicit drug trafficking, the Congress was addressed by the representatives of the Division of Narcotic Drugs and of the United Nations Fund for Drug Abuse Control. Several delegations pointed out a number of devastating effects which were caused by that traffic, including damage to national economies, impairment of societies' well-being and of the health of individual citizens and corruption of public officials. This situation called for an increased allocation of resources to fight organized crime with its ever new and sophisticated forms.

70. Both economic and social costs of illicit drug trafficking led a number of delegations to the position that there was a need to strengthen present international drug control instruments involving illicit drug trafficking, as well as criminal and penal policies through, inter alia, forfeiture of the proceeds of drug crimes, extradition of drug traffickers, improvement of international judicial

assistance and stricter control over the precursors of drugs. Emphasis was also placed on the need for cultural, social and economic measures aimed at the reduction of the illicit demand for drugs. This could be achieved through preventive education, treatment and rehabilitation of drug addicts. The reduction of supply by the substitution of crops also had a very important role to play. Some delegations favoured a more stringent application of existing international instruments and made a plea for their ratification by those countries which had not yet become parties to them.

71. Many delegations stressed the need for strengthening concerted international action and for increasing support for the activities of the United Nations Fund for Drug Abuse Control (UNFDAC).

72. Summing up, the following measures were suggested:

(a) The introduction of penalties which accurately reflected the seriousness of the offence;

(b) The conclusion of additional and better extradition agreements;

(c) Legislation facilitating the forfeiture of the proceeds of drug crimes;

(d) Increased control over free trade zones which facilitated such traffic;

(e) The control of drug availability through medical prescription;

(f) The reduction of the demand for drugs through education;

(g) The substitution of crops.

It was also asserted that an effective means against drug trafficking was the reduction in the demand for drugs, which would result in a decrease in production. In other words, both aspects of supply and demand deserved equal attention and action.

73. The deleterious impact and grave menace of terrorism were mentioned by several delegations, and a linkage was identified between terrorist groups and drug trafficking. On the other hand, it was considered important that the struggle against terrorism should not be allowed to become an excuse for authoritarian rule and for the persecution of dissenters and political opponents.

74. Several delegations emphasized the urgent need to establish a more effective control over terrorist activities, which corresponds to an apparent increase in the international co-ordination of terrorist operations.

75. The Congress was also informed about the current trends regarding the prevention of maritime fraud, including piracy, on the basis of a working paper submitted by the United Nations Conference on Trade and Development (UNCTAD).

76. It was pointed out that ecological crimes constituted an emerging criminal category, of which pollution was perhaps the most visible example. Such crimes were often the result of industrial and commercial operations, which impinged on the quality of life and the material well-being of entire societies and frequently had a negative impact on the development efforts of nations.

## 2. Crime prevention and planning

77. Further enhancement of the efficacy of crime prevention and control required, in the opinion of many delegations, the multi-level integration of crime prevention strategies and policies into the process of national development planning. The specific characteristics of this integration should, however, correspond to the unique needs of each society. Some delegates indicated that social programmes for crime prevention should be complemented with situation-oriented activities, aimed at reducing the opportunities to commit criminal offences.

78. It was underlined by several delegations that the best crime prevention policy was the removal of the causes and motivations of criminal behaviour. In that perspective, crime prevention depended, above all, on the success of the efforts undertaken to improve social conditions and the quality of life by means of the full implementation of social justice. Therefore, it could be asserted that economic progress, when coupled with social justice, acted in a crime-preventive manner, in so far as it contributed to the improvement of life chances, a development that tended to ease dangerous social tensions.

79. In this connection, emphasis was placed on the necessity to develop the human resources of society. For the attainment of that goal, several delegations emphasized the indispensability of social and economic planning. Health services, education, social welfare and adequate housing, coupled with adequate employment opportunities, were essential components of realistic crime prevention policies. It was also stressed that numerous societies lacked the resources required to implement those elements of comprehensive prevention. There was considerable agreement concerning the need to facilitate further the reintegration of the offender into society.

80. Several representatives further emphasized that effective crime prevention policies required the preservation of spiritual values, religious or otherwise. In that respect, the support of family structures was of fundamental importance, particularly in so far as basic values were first and foremost transmitted within such structures. The difficult but not impossible task was the harmonization of inherited values with the requirements of development, and the retention of certain traditional structures while undergoing profound socio-economic transformation.

81. There was general recognition of the fact that no single solution could suffice to cope with the complexity of the problem of crime today. Solutions should thus be as diversified as the problems with which they were intended to deal. Those solutions should, moreover, be integrated and comprehensive, and should involve all components of the immediate community and the larger society. This collective nature of crime prevention had to be explicitly recognized. Crime prevention efforts had to be coupled with scientific research that could serve to validate the success of different policies and programmes. Such research was predicated on the availability of up-to-date and reliable information and, for that purpose, some delegates indicated that it was useful to develop further the collection of statistics for a United Nations crime-related data base.

82. The view was expressed by many delegates that crime prevention and criminal justice had lagged considerably behind the new manifestations of criminality. One of the factors stressed in this connection was the low efficiency of criminal justice administration, as exemplified by low rates of detection and conviction. There was thus an acute need to develop new dimensions of prevention commensurate to the contemporary challenges. On the other hand, norms should correspond to the

specific characteristics of societies and cultures, and it was suggested that extreme caution should be exercised with regard to the importation of alien solutions that did not correspond to the autochthonous problems.

### 3. Regional and international co-operation

83. It was generally agreed that crime prevention policies and programmes required regional and interregional co-operation if they were to be successful. This was owing to the transnational characteristics of such criminal phenomena as terrorism, illicit drug trafficking, organized crime and economic crime. None the less, although such co-operation was essential and indispensable, it should in no way be carried out in ways that were detrimental to national sovereignty.

84. With respect to organized crime, international co-operation should include, according to several delegations, the possibility of the forfeiture of assets across national boundaries, as well as a mechanism to trace international financial transactions. Those measures were necessary to impede the laundering of money and the resultant clandestine profits and were imperative in the struggle against organized crime. The linkages between organized crime and economic crime implied that the prevention and repression of the latter were indispensable weapons in the struggle against the former. Only by destroying the illicit profits could organized crime be brought under control.

85. The need for technical co-operation and assistance was even more imperative in view of the fact that numerous countries did not possess the scientific and financial resources that were required for effective crime prevention and criminal justice programmes that could adequately cope with the contemporary challenges of a growing and sophisticated criminality.

86. In this connection, the statements of Directors of regional institutes in the field of crime prevention and criminal justice on the specific aspects of their recent activities were accepted with great interest and appreciation. Several delegates stressed the need for completing a world-wide network of such regional institutes by establishing an African institute.

#### Consideration of draft resolutions

87. In the course of its deliberations, the plenary considered the following draft resolutions:

(a) "Organized crime" (A/CONF.121/L.2), sponsored by Argentina, Australia, Burkina Faso, Denmark, Indonesia, the Netherlands, New Zealand, Samoa, Sweden, Venezuela and Yugoslavia, subsequently joined by the Federal Republic of Germany, Guatemala, Italy and Nigeria;

(b) "Struggle against illicit drug trafficking" (A/CONF.121/L.4), sponsored by Australia, Denmark, France, the Federal Republic of Germany, Italy, Pakistan, Peru, Saudi Arabia, Senegal, Spain, Sweden, the United States of America and Venezuela, subsequently joined by Canada, Indonesia, Nigeria, the Philippines, Switzerland and the United Kingdom of Great Britain and Northern Ireland;

(c) "International co-operation in drug abuse control" (A/CONF.121/L.5), sponsored by the Federal Republic of Germany, Italy, Peru, Saudi Arabia, Senegal,

Spain, Sweden, the United States of America and Uruguay, subsequently joined by Canada, Costa Rica, the Philippines and Turkey;

(d) A/CONF.121/L.6, sponsored by Egypt: amendment proposed to draft resolution A/CONF.121/L.2;

(e) A/CONF.121/L.7, sponsored by the Union of Soviet Socialist Republics: amendments to the draft resolution contained in the annex to A/CONF.121/19;

(f) "Establishment of an African Regional Institute for the Prevention of Crime and the Treatment of Offenders" (A/CONF.121/L.8), sponsored by Senegal in the name of the States Members of the United Nations which are members of the African Group, subsequently joined by Argentina, Costa Rica, Finland, France, India, Mexico, Sweden and the United States of America;

(g) "Crime prevention in the context of development" (A/CONF.121/L.9), sponsored by Argentina, Brazil, Burkina Faso, Colombia, Costa Rica, Cuba, Egypt, Ethiopia, Jamaica, the Libyan Arab Jamahiriya, Madagascar, Mexico, Mozambique, Nicaragua, Nigeria, Peru, Uganda, Uruguay, Venezuela, Yugoslavia and Zimbabwe, subsequently joined by Iraq;

(h) "Technical co-operation in the field of crime prevention and criminal justice" (A/CONF.121/L.10), sponsored by Argentina, Brazil, Costa Rica, Cuba, Mexico, Panama and Venezuela, subsequently joined by France, the United States of America and Yugoslavia;

(i) "Recommendations of the Open-ended Working Group on the draft guiding principles for crime prevention and criminal justice in the context of development and a new international economic order", issued under the symbol A/CONF.121/19 (A/CONF.121/L.11);

(j) "Criminal acts of a terrorist character" (A/CONF.121/L.12), sponsored by Belgium, Canada, Costa Rica, Egypt, the Federal Republic of Germany, Indonesia, Jordan, Kuwait, New Zealand, Panama, Turkey, Saudi Arabia, the United States of America and Yugoslavia;

(k) Recommendations of the Open-ended Working Group on the draft Milan Plan of Action (A/CONF.121/L.15).

#### Action taken by the Congress

##### (i) Organized crime

88. At the 4th plenary meeting, on 27 August, the representative of Australia introduced draft resolution A/CONF.121/L.2.

89. At the 11th plenary meeting, on 4 September, the Secretary of the Congress read out revisions and amendments resulting from the informal consultations on the draft resolution, held under the chairmanship of Mrs. Simone Rozès (France), Vice-President of the Congress.

90. At the same meeting, the Congress adopted the draft resolution, as orally revised and amended. (For the text, see chap. I, sect. E, resolution 1.)

(ii) Struggle against illicit drug trafficking

91. At the 10th plenary meeting, on 30 August, the representative of Italy introduced draft resolution A/CONF.121/L.4.
92. At the 11th plenary meeting, on 4 September, the Secretary of the Congress read out revisions and amendments resulting from the informal consultations on the draft resolution, held under the chairmanship of Mrs. Simone Rozès (France), Vice-President of the Congress.
93. At the same meeting, the Congress adopted the draft resolution, as orally revised and amended. (For the text, see chap. I, sect. E, resolution 2.)
94. After the adoption of the draft resolution, the representative of the Netherlands made a statement.

(iii) International co-operation in drug abuse control

95. At the 10th plenary meeting, on 30 August, the representatives of Italy introduced draft resolution A/CONF.121/L.5.
96. At the 11th plenary meeting, on 4 September, the Secretary of the Congress read out revisions and amendments resulting from the informal consultations on the draft resolution, held under the chairmanship of Mrs. Simone Rozès (France), Vice-President of the Congress.
97. The representatives of Burkina Faso and the Niger made statements.
98. At the same meeting, the Congress adopted the draft resolution, as orally revised and amended. (For the text, see chap. I, sect. E, resolution 3.)

(iv) Establishment of an African Regional Institute for the Prevention of Crime and the Treatment of Offenders

99. At the 11th plenary meeting, on 4 September, the representative of Senegal introduced draft resolution A/CONF.121/L.8.
100. At the same meeting, the Congress adopted the draft resolution. (For the text, see chap. I, sect. E, resolution 4.)
101. After the adoption of the draft resolution, statements were made by the representatives of Burkina Faso, Mauritania, Jordan and Nigeria.

(v) Technical co-operation in the field of crime prevention and criminal justice

102. At the 11th plenary meeting, on 4 September, the representative of Argentina introduced and orally revised draft resolution A/CONF.121/L.10.
103. At the 12th plenary meeting, on 5 September, the Congress adopted the draft resolution, as orally revised. (For the text, see chap. I, sect. E, resolution 5.)

104. The representative of the United Nations Development Programme made a statement.

(vi) Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order

105. At the 7th plenary meeting, on 29 August, the Congress established an Open-ended Working Group, under the chairmanship of Mr. G. Polimeni (Italy) to consider the draft guiding principles for crime prevention and criminal justice in the context of development and a new international economic order (A/CONF.121/19) and other related matters.

106. At the 11th plenary meeting, on 4 September, Mr. G. Polimeni (Italy) introduced the recommendations of the Working Group (A/CONF.121/L.11) on the guiding principles (A/CONF.121/19).

107. Statements were made by the representatives of Cuba, Burkina Faso, the Niger, Mauritania, Zaire, Brazil and Portugal.

108. The Chairman of the Working Group made a statement.

109. The Director of the Office of the Director-General for Development and International Economic Co-operation orally proposed an amendment, which was accepted by the Congress.

110. At the same meeting, the draft resolution and the draft guiding principles, as recommended by the Working Group (A/CONF.121/L.11) were adopted. (For the text, see chap. I, sect. B above.)

111. Statements were made by the representatives of Mauritania, India, Sweden, Argentina, Nigeria, Yugoslavia, Cuba and Spain.

(vii) Milan Plan of Action

112. At its 12th plenary meeting, on 5 September, the Congress considered the draft Milan Plan of Action. Mr. Polimeni (Italy), Chairman of the Open-ended Working Group, introduced and orally revised the recommendations of the Working Group (A/CONF.121/L.15).

113. The Congress adopted the draft resolution and the Milan Plan of Action recommended by the Working Group, as orally revised. (For the text, see chap. I, sect. A above.)

114. Statements were made by the representatives of the United Kingdom of Great Britain and Northern Ireland, Bangladesh, Senegal, Japan, Italy, China, Argentina and Switzerland.

115. The Executive Secretary of the Congress made a statement.

(viii) Crime prevention in the context of development

116. At the 11th plenary meeting, on 4 September, the representative of Cuba introduced draft resolution A/CONF.121/L.9.

117. At the 14th plenary meeting, on 6 September, the representative of Cuba introduced the draft resolution, as amended by the co-sponsors, as a result of which Argentina withdrew from the list of sponsors.

118. The representative of Argentina made a statement.

119. The Congress adopted the draft resolution, as amended. (For the text, see chap. I, sect. E, resolution 22.)

(ix) Criminal acts of a terrorist character

120. At the 11th plenary meeting, on 4 September, the representative of the United States of America introduced draft resolution A/CONF.121/L.12.

121. At its 14th plenary meeting, on 6 September, the Congress considered a revised draft resolution (A/CONF.121/L.12/Rev.1), sponsored by Belgium, Canada, Costa Rica, Egypt, the Federal Republic of Germany, Jordan, Kuwait, New Zealand, Panama, Saudi Arabia, Switzerland, Turkey, the United States of America and Yugoslavia, which was the result of informal consultations held on draft resolution A/CONF.121/L.12, under the chairmanship of Mrs. Simone Rozès (France), Vice-President of the Congress.

122. At the same meeting, the Congress adopted the revised draft resolution (for the text, see chap. I, sect. E, resolution 23).

B. Report of Committee I

Introduction

123. At its 1st plenary meeting, on 26 August 1985, the Congress allocated to Committee I, in accordance with Economic and Social Council resolution 1984/45, agenda item 4, entitled "Criminal justice processes and perspectives in a changing world", and agenda item 7, entitled "Formulation and application of United Nations standards and norms in criminal justice".

Agenda item 4

Criminal justice processes and perspectives in a  
changing world (topic 2)

124. The Committee considered agenda item 4 at its 1st to 6th and 12th meetings, from 26 August to 3 September 1985. The item was introduced by the representative of the Secretariat. Thirty-two delegations made interventions.

125. For its consideration of the item, the Committee had before it the following documents:

- (a) Working paper prepared by the Secretariat on criminal justice processes and perspectives in a changing world (A/CONF.121/5);
- (b) The fair treatment of women by the criminal justice system: report of the Secretary-General (A/CONF.121/17 and Corr.1 and A/CONF.121/17/Add.1);
- (c) Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic 2: Criminal justice processes and perspectives in a changing world (A/CONF.121/IPM/2).

126. Several delegations spoke of the processes of social change in relation to criminal justice processes in their countries. In some cases, those changes encompassed economic, social and political life, whereas in others, marked change was to be observed primarily in the economic sector. Increased urbanization was regarded as criminogenic in many, but not all countries. The changing economic patterns of many countries had led to the emergence or spread of different types of economic crime, involving theft from individuals, organizations or the State in a way which was not easily detectable and was difficult to prosecute. In some countries, crimes of violence had increased sharply, most often in the form of robbery with violence. Some delegations stressed that there was no increase of criminality in their countries.

127. The discussion of the topic was mostly concerned with the role of criminal justice agencies, the desirability of co-ordination among them, the involvement of the public, the flow of information within and between agencies and the use of new information technology to achieve this.

#### 1. Criminal justice agencies

##### (a) The police

128. The role of the police was analysed and described by some delegations in detail. The police had inherited a role which had been established by colonial Powers at an earlier stage in the history of many developing countries; or the definition of their priorities had been transplanted from a nineteenth century European model. Thus in many countries the role of the police had to be transformed. In some cases this entailed a change from being instruments of an external Power; in others, from a reactive to a proactive role. Police forces had, at one time, primarily a proactive role, with the emphasis on the prevention of crime. Over time, however, as the police had developed the specialized skills of crime detection, the reactive role of responding to demands after an event had become central to the thinking and tradition of the police. The recent trend towards an emphasis on crime prevention therefore entailed a move away from what had become established as a traditional police culture; among other changes, it required a recognition of individuality and initiative on the part of police officers, as much as the obedience and conformity which had traditionally been recognized as the qualities most required.

129. It was emphasized by some delegations that the goals and objectives of the police were often in conflict with those of other agencies of criminal justice, and sometimes with different units within the police. The harmonization of those objectives, both within and between the agencies, was advocated in many

interventions. But it was also pointed out that total harmonization was not only not feasible, but even undesirable, as the differing goals and operating priorities of the different agencies produced the checks and balances necessary for fairness and equity in the administration of justice. In general, the police should be encouraged to be more precise about their own objectives and to appreciate the goals, priorities and constraints with which other agencies of justice operated.

130. It was frequently stressed that such encouragement could come only through a long-term programme of education and the periodic in-service training of all criminal justice personnel, but of the police in particular. The use of management techniques and organizational development, which had been tried and proved in the private sector, was advocated by some speakers. The institution of periodic workshops, seminars and conferences attended by professional experts from all agencies brought new perspectives to the police. Several countries were reported to have held a planned schedule of meetings which were annual, quarterly, monthly or even at more frequent intervals. Those meetings were attended by police officers, public prosecutors, senior prison officials and sometimes local court officials. Such meetings could provide a model for a national-level co-ordinating committee. In some countries, such a national committee has already been established - with a variety of titles. In countries where there is a national planning commission or department, it was proposed that such a commission could be represented on the committee, and so the task and needs of the criminal justice sector could be integrated into a wider-scope national planning context. In view of the fact that in one developing country the police used almost 6 per cent of the national public sector budget, while courts and corrections accounted for another 2 per cent, such linking with national economic bodies was considered essential. The newly constituted advisory committee in one country was reviewing all agencies of criminal justice and was about to report on the court system.

#### (b) Prosecution

131. The next agency of criminal justice considered was the prosecution service. The difference between the legality and opportunity principles, with different discretionary practices, as outlined in the working paper prepared by the Secretariat (A/CONF.121/5), was accepted at a general level, but it was noted that there were several variations of those two basic models. The role and status of prosecutors could be considered as related to that of the police; in both cases the level of resources allocated to the agency was a symbol of the social value placed in the agency. It was suggested that the style of work of the prosecutor was dependent on the quality of the work of the police. If the police presented a well-prepared case, the prosecutor was better able to determine whether or not to proceed. If the police case were deficient, the prosecutor would be more compelled to seek further evidence and to delay the case. Although the prosecutor had discretion at some point on how to proceed, the focus of that discretion moved according to the level of the quality of the preparatory police work.

132. Some delegates emphasized that the role of both the police and the prosecutor was determined to a considerable extent by the resources allocated to them, as well as by the structure of the system. That is, the distinction between the legality and opportunity principles can become blurred. If there are inadequate police resources, the prosecutor has to complete the preparation of the case; if the resources are inadequate in the prosecutor's office, delays or problems arise with the decision on how to proceed. It was suggested also that the side-effects of

insufficient resources should be studied in detail, as inefficiency or inability in one component part of the system could well cause the most serious disruption in another part or agency of the system. Several delegates described the relationship of the prosecutor to the other agencies of the system. The individual characteristics of each national system were illustrated, although it was clear also that much was common to the roles across most systems. Several delegates proposed that the formulation of guidelines for prosecution should be addressed as a matter of priority.

(c) Courts and prisons

133. The discussion then concentrated on the courts and the judiciary, and the question of imprisonment. The aspect most emphasized was the growing role of the public in those agencies. Various types of tribunals were reported to have been established in many countries to consider cases diverted from the main criminal justice system. Lay judges and members of those tribunals were often public representatives and, in a few countries, the courts at the lower level were composed primarily of an elected group of the public, acting with professional legal advice. The types of sentences handed down by the courts were described: some delegations emphasized the special provisions for more humane treatment, which applied to pregnant women and those with small children who were suspected or convicted of offences. Another country reported that the use of preventative long sentences of imprisonment for those convicted of repeated serious offences was thought to have had an effect on the crime rate.

(d) Legislation and diversion

134. The discussion of the operations of criminal justice systems involved also the nature of, and changes in, the legal codes which the criminal justice agencies implemented. The fact that lawyers charged low fees, or that some kind of state legal aid scheme had been introduced in some countries made possible greater confidence in the availability of the law to all. Several countries reported that decriminalization had been a feature of legislative change in recent years and that this had not been followed by a significant increase in the incidence of the acts to which it had been applied. Depenalization for a wide range of minor offences had been implemented in some countries.

135. Some techniques for diversion from the criminal justice system were reported. The main concerns with diversion, in the view of a number of delegations, were that there should be no reduction of the legal rights of the defendant, and that the alternative sanction was constructive for both the individual and society. Diversion schemes became more feasible when extensive public participation or involvement provided the resources for various types of rehabilitative schemes and non-institutional sanctions. One delegate emphasized the value of information on the effectiveness of alternatives to incarceration as helping to address the problem of the overcrowding of prisons.

(e) Public participation

136. The discussion turned to the issue of public participation in criminal justice and, particularly, in crime prevention and community alternatives to imprisonment. One country set forth in detail its efforts to create a network of crime prevention committees to ensure that crime prevention activities and programmes reflected local needs and circumstances. The view that "crime is everyone's problem" was emphasized, as was the view that crime prevention programmes had to address the fear of crime as well as crime itself. In that regard, community involvement and participation was seen as essential.

(f) Efficiency of criminal justice

137. The discussion of the efficiency of criminal justice in terms of costs and time focused on streamlining operations, simplifying procedures and the increasing use of micro-technology. Several delegates described efforts towards limiting formality, particularly for less serious offences, and procedures designed to reduce delays at various stages of the criminal justice process. Information and guidelines on streamlining criminal justice were seen as desirable.

(g) Information flow and technology

138. The Committee then discussed the need for information to be transmitted across the system, as well as within the agencies. Several of the industrialized countries had acquired sufficient experience with the use of computerized information technology to be able to describe the problems they had encountered, as well as the advances which had been made possible by the new equipment, and they were willing to share those experiences at the international level.

139. When information technology had been introduced initially, it was with large machines, the use of which was limited to the larger central offices of complex criminal justice systems. In one country, which had over 40 different police forces, a computerized information system had made it much easier for those forces to co-operate and co-ordinate their activities in many respects. Another country, with a strong federal tradition, reported a similar picture. In both cases, the information system had been used primarily within the agency for which it had been installed. Although it was recognized in principle that a similar co-ordination function for an information system was possible between and among different agencies, the implementation of that principle was only just beginning.

140. It was observed that this first, and still the most widespread, use of computers in other than a scientific research role was by the police. The memory capacity of computers of 10 years ago made them a very useful adjunct to the central offices of large police systems. However, their utility had spread to other, smaller component parts of the criminal justice system only in the last three or four years. That new level of utility came from the greatly increased flexibility of the micro-computer, in cases where memory size was not the first priority, the ease with which they could be accessed (user-friendliness), and a rapid, steep decline of costs. It was now worthwhile, that is, cost-effective, to install a micro-computer to assist the administration of small, local courts in some countries.

141. It was reported that, in many industrialized countries, electronic information systems were now being introduced in local police offices, courts, probation offices and prisons. While their cost had greatly decreased, their flexibility and robustness had increased. Hardware was being developed which could operate under a wide range of difficult conditions. Thus, within five or ten years, it would probably be possible for the criminal justice agencies of any interested country to obtain a comprehensive computerized information system which had been thoroughly tested and proved in one or more developed countries. But computerized information systems could be misused and abused, even while contributing to efficiency. They entailed also the need for trained staff, who would themselves become significant figures in the structure of the criminal justice system. It was pointed out, therefore, that the productive use of such systems required a very precise review of the exact needs of a country and its criminal justice agencies, as well as the training of senior staff in the capabilities and limitations of an information system.

142. The potential for regional co-operation in specific, concrete projects in respect of the introduction of information technology was stressed by many delegations. The need for accurate statistical records of trends in criminality and the various agencies of the criminal justice system was also emphasized by some delegates. The efforts of the Secretary-General to develop such a data base at the international level were noted with appreciation by one delegation, especially in respect of the Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies.

## 2. The fair treatment of women by the criminal justice system

143. This sub-topic was considered to be a necessary and important response to a series of recommendations by the Fifth and Sixth United Nations Congresses on the Prevention of Crime and the Treatment of Offenders, convened in 1975 and 1980, 104/ respectively, and to the recommendations of the Committee on Crime Prevention and Control, and as an achievement in the field of crime prevention and criminal justice during the United Nations Decade for Women.

144. Some delegates emphasized the importance of research and the creation of a statistical base for the analysis of the condition of women being dealt with by criminal justice systems. Activities were described which involved concrete measures for countering the neglect and discrimination which women had been experiencing in the criminal justice system in some countries. One delegation pointed out that resources available to the criminal justice system were limited and that there were other groups who might be discriminated against, for example, on grounds of race. In one country, statistical data were routinely maintained to monitor the treatment of women and to develop positive proposals to improve their treatment within the system.

145. It was noted that the extent to which female criminality appeared to increase varied from country to country. While in some countries there was a decrease in

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104/ For the reports of the Fifth and Sixth Congresses, see A/CONF.56/10 and Corr.1 and A/CONF.87/14/Rev.1 (United Nations publications, Sales Nos. E.76.IV.2 and corrigendum and E.81.IV.4, respectively).

female criminality, in most countries it seemed that the proportion of women in the total number of offenders continued to increase. Patterns of criminality and of victimization of women were changing with cultural and socio-economic conditions, including the changing role of women in society. For example, in several countries female offenders were increasingly involved in drug-related and violent offences than had been the case in the past.

146. Considerable emphasis was placed by some delegates on the importance of the responsiveness of the criminal justice system to the needs of female offenders generally, and particularly regarding the conditions of custody and the development of alternatives. In some countries, innovative strategies were being used for the treatment of female offenders.

147. Activities designed to support and maintain the families of incarcerated women, including the encouragement of family contacts, the transfer of female offenders to institutions within reach of their communities and the use of temporary periods of leave were reported by several delegates. The need for further promotion of those activities was underlined in several statements.

148. The importance of developing effective alternatives to incarceration was emphasized. Some countries described their national programmes to develop alternatives to incarceration, which are often implemented in co-operation with voluntary organizations. They allow female offenders to maintain family and community relationships and permit easier reintegration into society.

149. Several delegates indicated that fundamental to the issue of fair treatment of women was the elimination of discrimination against women and crime prevention through social development, ensuring fair and equal employment practices, equal pay for equal value and appropriate educational, health and social services. Fair and equal recruitment and employment practices, and equal participation in policy formulation and decision-making for women in the criminal justice system were all regarded as essential by delegates. In some countries, more females were participating in criminal justice operations, especially in dealing with female offenders, youth offenders and female and young victims of crime. Nevertheless, in some countries, women were still underrepresented in the higher levels of criminal justice decision-making and particularly of the judiciary and corrections. Women, in increasing numbers, have been entering the legal profession recently, but it would be some time before parity could be achieved. In a few countries, however, the majority of the legal profession, including judges, were female.

150. The problem of female victims, particularly of rape, sexual offences and domestic assaults, was discussed. Several countries described actual and proposed changes in legislation and practice to prevent the "double victimization" of female victims of rape, and to ensure greater sensitivity to their needs. Efforts to develop support networks, transition homes and safe houses, to offer physical protection and emotional and psychological support to victims of domestic or spousal assault, were described. Those changes included a new policy designed to ensure that spousal assault was treated as a criminal, rather than as a private family matter.

151. A fundamental change in attitudes towards women and their roles and rights was recognized. In this regard, efforts at public education, information and the training of criminal justice personnel in the needs and concerns of female offenders and victims and the elimination of socio-economic inequality of women

were important. It was generally recognized that such efforts aimed at enlightening criminal justice personnel were a fundamental prerequisite for improving the condition of women within the criminal justice system as offenders, victims or personnel.

152. For the consideration by the Committee of the draft resolutions submitted under this item, see paragraphs 184, 188 and 189 below.

Agenda item 7

Formulation and application of United Nations standards  
and norms in criminal justice (topic 5)

Introduction

153. The Committee considered agenda item 7 at its 3rd to 15th meetings, from 27 August to 4 September 1985. The topics were introduced by representatives of the Secretariat.

154. For its consideration of the topics, the Committee had before it the following documents:

- (a) Working paper prepared by the Secretariat (A/CONF.121/8);
- (b) Note by the Secretariat on Guidelines on the Independence of the Judiciary (A/CONF.121/9 and Corr.1);
- (c) Note by the Secretariat on the Model Agreement on the Transfer of Foreign Prisoners and Recommendations for the Treatment of Foreign Prisoners (A/CONF.121/10);
- (d) Report of the Secretary-General on the Code of Conduct for Law Enforcement Officials (A/CONF.121/12 and Add.1);
- (e) Report of the Secretary-General on alternatives to imprisonment and measures for the social resettlement of prisoners (A/CONF.121/13 and Add.1);
- (f) Report of the Secretary-General on the Implementation of the United Nations Standard Minimum Rules for the Treatment of Prisoners (A/CONF.121/15);
- (g) Note by the Secretary-General on extra-legal, arbitrary and summary executions (A/CONF.121/21);
- (h) Report of the Secretary-General on capital punishment (E/1985/43);
- (i) Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic 5: "Formulation and application of United Nations standards and norms in criminal justice" (A/CONF.121/IPM/3).

155. The Committee expressed its appreciation of the working paper and the reports.

156. The representative of the United Nations Centre for Human Rights informed the Committee about the Centre's work in relation to the issues discussed under this agenda item. He recalled that the "Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment" (A/C.6/39/L.10, annex), prepared by United Nations human rights bodies, have been considered by the General Assembly. He drew attention to the draft instruments being currently prepared by the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities on the prohibition of unacknowledged detention; the independence of justice and, in particular, the independence of the legal profession; and the possibility of adopting a further optional protocol to the International Covenant on Civil and Political Rights, with a view to the abolition of the death penalty (A/39/535).

157. Many delegations expressed views on the important role played by the United Nations over the years in the formulation and implementation of basic international instruments in criminal justice. It was pointed out that international co-operation was essential in the implementation of such United Nations standards and norms. Some delegations remarked that there was also a need for formulating new standards and guidelines that could be incorporated into national legislation. Other delegations, however, observed that there were already sufficient international norms and guidelines and that the most important matter was the enhancement of the implementation of the existing standards.

158. In the discussion, reference was made to a number of existing United Nations instruments of great significance, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Code of Conduct for Law Enforcement Officials and the Standard Minimum Rules for the Treatment of Prisoners. It was stressed that it was very important to guarantee the implementation of these international instruments.

159. Some delegates drew attention to the different socio-economic and cultural conditions of the various countries and stressed that the principles embodied in the instruments before the Congress should be formulated in such a way that they could be applied in accordance with different legal traditions. In this context, many delegates drew attention to their own legal systems, the problems encountered and the reforms that were needed.

160. There was also emphasis given to the need for in-depth studies and research activities to be undertaken at the national, regional and international levels. A number of delegations expressed also the opinion that Congresses of this kind should not consider specific questions which are to be solved at a national level. This would make the work of the future Congresses easier and would reduce the workload of the Crime Prevention and Criminal Justice Branch of the Secretariat.

1. Independence of the judiciary

161. Many delegations expressed strong support for the draft guidelines on the independence of the judiciary, which had been elaborated by the Committee on Crime Prevention and Control at its eighth session (decision 8/3, annex), 105/ reviewed by the concerned interregional preparatory meeting and submitted by the Economic and Social Council for adoption by the Seventh Congress (A/CONF.121/9 and Corr.1).

162. A number of delegations supported the adoption of the draft guidelines, but, because of the complexity of the subject in view of the many different judicial systems of Member States, the Committee decided that a Working Group should be set up to discuss the draft guidelines.

163. After having considered a number of articles in the draft guidelines, the Working Group felt that an abbreviated text of the guidelines might be more appropriate to enable the Working Group to accomplish its task. Following informal consultations among members of the Group, a new abbreviated text consisting of basic principles, taking into account most of the viewpoints expressed during the general debate on the draft guidelines, was proposed by a number of delegates. Several delegations indicated that they were willing to consider the new text in a spirit of compromise, but expressed their preference for the adoption of the draft guidelines. After full discussion, the Committee adopted, instead of draft guidelines, a set of basic principles on the independence of the judiciary, using as a guide the abbreviated text.

164. In adopting the basic principles, some delegations felt that work on the draft guidelines on the independence of the judiciary should continue, on the basis of the basic principles, in the Committee on Crime Prevention and Control and other relevant United Nations bodies, whereas some other delegations expressed the view that work should centre on the implementation of the newly adopted basic principles before further instruments were drafted.

2. Model Agreement for the Transfer of Foreign Prisoners and recommendations for the treatment of foreign prisoners

165. The Committee expressed general approval for the development of the model agreement, which had been formulated by the Committee on Crime Prevention and Control and transmitted by the Economic and Social Council for adoption by the Seventh Congress (A/CONF.121/10).

166. Some delegations expressed concern about some of the points contained in the model agreement, in particular as regards the requirement that the consent of the prisoner should be obtained for a transfer. It was pointed out, however, that the model agreement only served as a model for the conclusion of new instruments on the transfer of prisoners and would not in any way affect existing bilateral and multilateral agreements on the transfer of foreign prisoners. Informal discussions were held and some changes to the text were proposed. The amended text was adopted by the Committee.

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105/ See Official Records of the Economic and Social Council, 1984, Supplement No. 16 (E/1984/16), chap. I, sect. C.

### 3. Alternatives to imprisonment and measures for the social resettlement of prisoners

167. In discussing the report for this item (A/CONF.121/13 and Add.1), many delegations acknowledged that imprisonment should be regarded as a last resort to sanctioning and that every effort should be made to find alternatives to imprisonment for the social resettlement and re-socialization of offenders. Many delegates stated that their legal systems provided various forms of alternative measures to imprisonment, at the pre-trial stage, at the trial stage and the post-conviction stage, such as fines, probation, conditional release and community services.

168. It was also proposed by some delegations that decriminalization and depenalization of offences should be considered as appropriate alternative measures and that any such measures should be real alternatives and not merely sanctions in addition to imprisonment. In any case, in the use of alternatives to imprisonment, care should be taken so as not to jeopardize public safety or arouse public alarm. It was also stated that the punitive and deterrent as well as rehabilitation effects of imprisonment should not be disregarded.

169. The necessity of active public participation in the successful application of alternatives was stressed by several delegations and it was further pointed out that the use of alternatives should be linked, wherever possible, to related social services to assist in the offender's social reintegration.

### 4. Code of Conduct for Law Enforcement Officials

170. Many delegates stressed the need for the further implementation of the principles of the Code at the national level. Some delegates mentioned the important role of the United Nations and its regional and interregional institutes for the prevention of crime and the treatment of offenders, in facilitating the implementation of the Code, through technical assistance and advisory services.

171. The representative of the Centre for Human Rights drew the attention of the Committee to a proposal of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the United Nations Commission on Human Rights that the Seventh Congress should study ways and means to promote international technical co-operation in the area of restraints on the use of force by law enforcement officials and military personnel.

172. It was pointed out by some delegates that, following the recommendations of the Interregional Preparatory Meeting on topic 5, held from 24 to 28 September 1984 at Varenna, Italy (A/CONF.121/IPM/3, paras. 34-36), priority should be given to the establishment of a mechanism for the more effective implementation of the Code, including periodic reporting by Member States to the United Nations. Some other speakers, however, felt that there was no need for such a mechanism.

### 5. Capital punishment

173. Many delegations welcomed the safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in its resolution 1984/50, of 25 May 1984, and noted that the procedures and guarantees laid down in their national legislation frequently went beyond the

safeguards. In this connection, support was expressed for the formulation of a mechanism for the implementation of the safeguards, as initially drafted by the Varena meeting (A/CONF.121/IPM/3, para. 65) in pursuance of the above Council resolution. It was further observed that it would be enough to have the safeguards as approved by the Council.

174. Some delegations noted that, in accordance with the safeguards, they should not be interpreted as affecting the consideration of the abolition of capital punishment. In that connection, reference was made to General Assembly resolution 2857 (XXVI) of 20 December 1971 and 32/61 of 8 December 1977, in which the Assembly emphasized that, in order to guarantee fully the right to life, the main objective to be pursued was that of progressively restricting the number of offences for which capital punishment might be imposed with a view to the desirability of abolishing that punishment in all countries.

175. Several countries which had abolished capital punishment informed the Committee of historical developments which had led to this. Concern was expressed about the current use of capital punishment, as documented in the third quinquennial report of the Secretary-General on capital punishment (E/1985/43 and A/CONF.121/CRP.2). Some delegations indicated their interest in dissemination and receipt of information about trends in the abolition of the death penalty.

#### 6. Implementation of the Standard Minimum Rules for the Treatment of Prisoners

176. It was pointed out by many delegations that the Standard Minimum Rules for the Treatment of Prisoners were a very useful instrument, that the Rules continued to influence to a large degree the legislation and correctional practice in various countries, and that they remained valid and needed no revision until their major elements had been implemented at the national level. Some countries, however, suggested that the time was ripe for a revision of the Rules. Several countries pointed out that the principles embodied in the Rules had already been enshrined in their constitutions. It was also noted that efforts had been made in various countries to improve prison conditions, reduce the number of offenders sent to prison, strengthen training programmes for prison staff, differentiate institutional treatment and secure early release.

177. Many delegations welcomed the adoption of the Procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners by the Economic and Social Council in its resolution 1984/47 of 25 May 1984 as a useful means to further enhance the application of the Rules.

178. Some countries observed that they had difficulties in attaining the full implementation of the Rules because of overcrowding in prisons. In this connection reference was made to financial constraints both in respect of planning of prison buildings and their organizational structure, and the training and adequate remuneration of personnel of penal institutions. Other countries stated, however, that they had developed practices that went beyond the minimum standards contained in the Rules.

179. Some delegations drew attention to the need to improve the legal status of prisoners and to strengthen the mechanisms for safeguarding their basic rights, which were the same as those of any other citizen, except for the temporary deprivation of liberty. To this end, it was suggested that the various aspects of

enforcement of those rights should not be the exclusive responsibility of the executive branch of the Government, but should also be the responsibility of judicial bodies such as supervisory magistrates.

180. It was emphasized by many delegates that the exchange of information and experience as regards implementation of the Rules was essential in order to help countries meet the challenges in the field of prison administration. It was suggested that, in order to enhance the implementation of the Rules, Member States should endeavour to inform the Secretary-General on the progress made on a more frequent basis.

#### 7. Extra-legal, arbitrary and summary executions

181. The Committee expressed its grave concern about the abhorrent practice of extra-legal, arbitrary and summary executions which continued to exist in some parts of the world. It was recommended that greater efforts should be made in preventing and investigating such occurrences and support was expressed for whatever new initiatives could be undertaken by the United Nations in that regard. Several delegations observed that the recommendations made by the Varenna meeting constituted a viable basis for the elaboration of an instrument which, in the future, could strengthen measures aimed at the prevention and investigation of such executions.

182. It was also pointed out that it was necessary to take steps in that field with due attention to the actions of other United Nations bodies concerned.

183. For the consideration by the Committee of the draft resolutions submitted under this item, see paragraphs 185 to 187 and 190 to 199 below.

#### Consideration of draft resolutions

184. In the course of its deliberations on agenda item 4, Committee I considered the following draft resolutions:

(a) "Fair treatment of women by the criminal justice system", sponsored by Canada, Egypt, Finland, Greece, Kenya, Malta, Panama, Sweden and Yugoslavia (A/CONF.121/C.1/L.1);

(b) "Prosecution", sponsored by the Federal Republic of Germany, Jamaica, Peru, the Philippines, the Republic of Korea, Sierra Leone, Sweden and Yugoslavia (A/CONF.121/C.1/L.2);

(c) "Criminal justice systems - Development of Guidelines for the Training of Criminal Justice Personnel", sponsored by Canada, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Saudi Arabia and the United States of America (A/CONF.121/C.1/L.3, as orally revised);

(d) "Development of crime and criminal justice information and statistical systems", sponsored by Canada, Costa Rica, the Gambia, the Federal Republic of Germany, Jamaica, Kuwait, Malaysia, Peru, Qatar, Saudi Arabia, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela and Zambia (A/CONF.121/C.1/L.5).

185. In the course of its deliberations on agenda item 7, Committee I considered the following draft resolutions:

(a) A/CONF.121/C.1/L.4, entitled "Code of Conduct for Law Enforcement Officials", sponsored by Australia. This draft resolution was subsequently amalgamated with draft resolution A/CONF.121/C.1/L.17 (see under (m) below) into draft resolution A/CONF.121/C.1/L.21 (see under (q) below);

(b) A/CONF.121/C.1/L.6/Rev.1, as orally revised, entitled "Human rights of the prisoners". The draft resolution was sponsored by Algeria, Argentina, Brazil, Colombia, Costa Rica, Cuba, the Dominican Republic, Mexico, Nicaragua, Panama, Peru, Uruguay and Venezuela; later joined by Chile;

(c) A/CONF.121/C.1/L.7 entitled "Status of prisoners", sponsored by Argentina, Austria, Canada, Egypt, Finland, Italy, Sweden, Uruguay, Venezuela and Zambia;

(d) A/CONF.121/C.1/L.8, entitled "Extra-legal, arbitrary and summary executions", sponsored by Austria, Denmark, France, Greece, Italy, Norway, Uruguay and Yugoslavia, and later joined also by the Federal Republic of Germany and Hungary;

(e) A/CONF.121/C.1/L.9 entitled "Safeguards guaranteeing the rights of those facing the death penalty", sponsored by Austria, Denmark, France, Greece, India, Italy, Norway, Uruguay and Yugoslavia;

(f) A/CONF.121/C.1/L.10 entitled "Transfer of criminal proceedings", sponsored by Austria, Denmark, Norway, Sweden and Yugoslavia;

(g) A/CONF.121/C.1/L.11, entitled "Model Agreement on the Transfer of Foreign Prisoners and recommendations for the treatment of foreign prisoners", sponsored by Austria, Denmark, Finland, France, Hungary, Italy, Norway, Sweden and the United States of America, on which no action was taken in view of the report of the informal consultations of the Committee (A/CONF.121/C.1/L.19), (see (o) below);

(h) A/CONF.121/C.1/L.12, entitled "Supervision of conditionally sentenced or conditionally released offenders", sponsored by Austria, Denmark, Norway, Sweden and Yugoslavia;

(i) A/CONF.121/C.1/L.13, entitled "Alternatives to imprisonment and measures for the social settlement of offenders", sponsored by Argentina, Chile, Cuba, France, the Federal Republic of Germany, Japan, Venezuela and Zambia. This draft resolution was subsequently amalgamated with draft resolutions A/CONF.121/C.1/L.15 and A/CONF.121/C.1/L.16 (see under (k) and (l) below), into draft resolution A/CONF.121/C.1/L.15/Rev.1 and 2 (see under (k) below);

(j) A/CONF.121/C.1/L.14, as orally amended, entitled "Role of lawyers". The draft resolution was sponsored by Italy, Liechtenstein, Uruguay and Zambia;

(k) A/CONF.121/C.1/L.15/Rev.2, entitled "Reduction of the prison population, alternatives to imprisonment, and social integration of offenders", sponsored by Austria, Canada, Denmark, Finland, France, Ireland, Italy, Norway, Sweden and the United Kingdom of Great Britain and Northern Ireland; this revision was an amalgamation of draft resolutions A/CONF.121/C.1/L.13 and A/CONF.121/C.1/L.16 (see under (i) above, and (l) below);

(l) A/CONF.121/C.1/L.16, entitled "Guidelines on alternatives to imprisonment", sponsored by Italy; this draft resolution was subsequently amalgamated with draft resolutions A/CONF.121/C.1/L.13 and A/CONF.121/C.1/L.15/Rev.1 and 2 (see under (i) and (k) above);

(m) A/CONF.121/C.1/L.17, entitled "Code of Conduct for Law Enforcement Officials", sponsored by Italy. This draft resolution was amalgamated with draft resolution A/CONF.121/C.1/L.4 (see under (a) above) into draft resolution A/CONF.121/C.1/L.21 (see under (q) below);

(n) A/CONF.121/C.1/L.18, entitled "Report of the Working Group on the Basic Principles on the Independence of the Judiciary";

(o) A/CONF.121/C.1/L.19, entitled "Report of the informal consultations of the Committee on the Model Agreement on the Transfer of Foreign Prisoners and Recommendations for the Treatment of Prisoners" (see also (g) above);

(p) A/CONF.121/C.1/L.20, entitled "Basic Principles on the Independence of the Judiciary";

(q) A/CONF.121/C.1/L.21, entitled "Code of Conduct for Law Enforcement Officials", sponsored by Australia and Italy. This draft resolution was an amalgamation of draft resolutions A/CONF.121/C.1/L.4 and A/CONF.121/C.1/L.17 (see under (a) and (m) above).

186. At its 11th meeting, on 3 September, Committee I considered the report of the Working Group on the Basic Principles on the Independence of the Judiciary (A/CONF.121/C.1/L.18) and adopted it, as orally amended.

187. Statements were made by the representatives of Austria, Hungary, Italy, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

188. At its 12th meeting, on 3 September, the Committee adopted by consensus and recommended to the Congress for adoption the four draft resolutions as revised, considered under agenda item 4 (see para. 184 above).

189. Statements were made by the representatives of the following States: Greece, Panama, Canada, United States of America, Australia, Union of Soviet Socialist Republics, Kuwait, United Kingdom of Great Britain and Northern Ireland, Libyan Arab Jamahiriya, Egypt, Sierra Leone, German Democratic Republic, Bulgaria, Netherlands, Senegal, Jamaica, Cameroon, India, Spain, United Republic of Tanzania, Swaziland, Algeria, Italy, France, China and Costa Rica.

190. At its 13th meeting, on 4 September, the Committee adopted by consensus and recommended to the Congress for adoption the draft resolutions, as revised, listed in subparagraphs 185 (c) and (d), as well as the draft resolution (para. 185 (o) above) on the Model Agreement on the Transfer of Foreign Prisoners and Recommendations for the treatment of foreign prisoners and the draft resolution (para. 185 (p) above) on the Basic Principles on the Independence of the Judiciary, as recommended by the Working Group.

191. Statements were made by the representatives of the following States: Austria, Australia, Argentina, German Democratic Republic, Senegal, Union of Soviet Socialist Republics, Algeria, Libyan Arab Jamahiriya, Netherlands, Saudi Arabia,

Bulgaria, France, United Kingdom of Great Britain and Northern Ireland, Kuwait, Uruguay, Greece, Czechoslovakia, Nigeria, Spain, Italy, Japan, Jordan, Germany, Federal Republic of, and Panama.

192. The Chairman made a statement.

193. At its 14th meeting, on 4 September, the Committee adopted by consensus and recommended to the Congress for adoption the draft resolutions, as revised, listed in subparagraphs 185 (f), (h) and (q).

194. Statements were made by the representatives of the following States: Italy, Japan, France, German Democratic Republic, Cuba, Czechoslovakia, Liechtenstein, Austria, Bulgaria, Gambia, Netherlands, Switzerland, Libyan Arab Jamahiriya, Norway, United States of America, Canada, Australia, Denmark, Kuwait, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and Uruguay.

195. At its 15th meeting, on 5 September, the Committee adopted by consensus and recommended to the Congress for adoption the draft resolutions listed in subparagraphs 185 (e) and (k) above.

196. Statements were made by the representatives of the following States: United States of America, Algeria, Union of Soviet Socialist Republics, Italy, Uruguay, United Kingdom of Great Britain and Northern Ireland, Greece, Austria, Denmark, Czechoslovakia, India, Libyan Arab Jamahiriya, Netherlands, Kuwait, Egypt, Argentina, German Democratic Republic, Poland and Nigeria.

197. The Chairman also made a statement.

198. At its 16th meeting, on 5 September, the Committee adopted by consensus and recommended to the Congress for adoption the draft resolutions, as revised, listed in subparagraphs 185 (b) and (j).

199. Statements were made by the representatives of the following States: Argentina, Italy, Bulgaria, Union of Soviet Socialist Republics, German Democratic Republic, Netherlands, United Kingdom of Great Britain and Northern Ireland, China, Czechoslovakia, Japan, United States of America, Spain, Austria and Gambia.

200. The Committee then adopted its report, as revised.

201. Statements were made by the representatives of the following States: Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Czechoslovakia, Japan and United States of America.

#### Action taken by the Congress

202. At its 13th plenary meeting, on 6 September, the Rapporteur of Committee I introduced its reports on agenda items 4 (A/CONF.121/L.14) and 7 (A/CONF.121/L.16 and Add.1 and 2).

203. The four draft resolutions recommended under agenda item 4 (A/CONF.121/L.14, para. 3) were adopted. (For the texts of the resolutions, see chap. I, sect. E, resolutions 6 to 9.)

204. The representative of Burkina Faso expressed reservations with regard to draft resolutions II and III (A/CONF.121/L.14, para. 3).

205. At the same meeting, draft resolutions I, II and III recommended under agenda item 7 (A/CONF.121/L.16, para. 9) were adopted. (For the texts, see chap. I, sect. E, resolutions 10 and 11, and sect. D.1, respectively.)

206. Reservations were expressed by Burkina Faso, Iraq, the Niger and Nigeria with regard to draft resolution III on the Model Agreement on the Transfer of Foreign Prisoners and recommendations for the treatment of foreign prisoners.

207. At the 14th plenary meeting, reservations were also expressed regarding draft resolution III by the representatives of Kuwait, Mauritania, Qatar, Jordan, Saudi Arabia, Egypt and the United Arab Emirates.

208. At the 13th plenary meeting, the Congress considered draft resolution IV on the Basic Principles on the Independence of the Judiciary (A/CONF.121/L.16, para. 9). Reservations were expressed by the representatives of Burkina Faso, Iraq, Mozambique, the Niger and Kuwait.

209. At the same meeting, the representative of Nigeria made a statement in which he proposed an amendment to replace paragraph 5 (a) and (b) of the annex to draft resolution IV by the following text:

"Normally, no special tribunal shall be established to displace the jurisdiction properly belonging to the ordinary court."

210. The representative of Senegal also made a statement.

211. At the 14th plenary meeting, the representative of Nigeria made a statement in which he withdrew his amendment in the light of the text resulting from informal consultations on paragraph 5 of the annex to draft resolution IV.

212. At the same meeting, following a statement by the representative of Canada, the Congress adopted draft resolution IV (A/CONF.121/L.16, para. 9) as orally amended. (For the text, see chap. I, sect. D.2.)

213. At the same meeting, the Congress adopted draft resolutions V, VI and VII (A/CONF.121/L.16, para. 9). (For the text, see chap. I, sect. E, resolutions 12, 13 and 14.) Burkina Faso and the Niger expressed reservations concerning draft resolution V.

214. At the same meeting, draft resolutions I and II (A/CONF.121/L.16/Add.1, para. 4) were adopted. (For the texts, see chap. I, sect. E, resolutions 15 and 16.)

215. At the same meeting, the Congress adopted draft resolutions I and II (A/CONF.121/L.16/Add.2, para. 3). (For the texts, see chap. I, sect. E, resolutions 17 and 18.)

## C. Report of Committee II

### Introduction

216. At its 1st plenary meeting, on 26 August, the Congress adopted the agenda and allocated items 5, entitled "Victims of crime" (topic 3) and 6, entitled "Youth, crime and justice" (topic 4), to Committee II.

### Agenda item 5

#### Victims of crime (topic 3)

217. The Committee considered agenda item 5 at its 8th to 17th meetings, from 30 August to 5 September 1985. Informal consultations, as called for by the Committee, were held on 30 and 31 August and on 3 and 4 September. The item was introduced by the representative of the Secretariat.

218. For its consideration of the item, the Committee had before it the following documents:

- (a) Survey of redress, assistance, restitution and compensation for victims of crime: report of the Secretary-General (A/CONF.121/4);
- (b) Working paper prepared by the Secretariat on victims of crime (A/CONF.121/6 and Corr.1);
- (c) The situation of women as victims of crime: report of the Secretary-General (A/CONF.121/16);
- (d) Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on Topic 3: Victims of crime (A/CONF.121/IPM/4/Corr.1 and Add.1).

#### 1. Victims and victimization

219. Much of the discussion was concerned with the scope of the topic and definition of the term "victims". There was wide acceptance of the view that victims, in whatever sense that term was used, had for too long received insufficient attention from criminal justice systems, though it was noted that customary justice mechanisms were generally more effective in that regard. While in recent years considerable progress had been made to improve the situation of victims, many shortcomings and problems remained.

220. With regard to "conventional" crime, it was the experience of many countries that offences of various kinds were often substantially under-reported. Consequently, official crime statistics gave an inadequate and sometimes actually misleading perspective of the true extent of victimization. It was also noted that, where victim centres or specialized services for victims had been established, with the expectation that these would be utilized by victims of traditional crime, a self-defining process had been set in motion, with the consequence that the clients were actually drawn from a much wider category than that of victims of traditional crime. This indicated the need to recognize that concern for the situation of victims must be seen in a broader context.

221. Reference was also made to the enduring effects of some forms of victimization -- the victimization spiral. For example, it seemed that there was an association between victimization of children and their subsequent adult conduct as offenders victimizing others. Also, gross forms of victimization, such as torture, disappearance and genocide, had been shown to have negative effects not only upon the direct victims and their immediate families, but also upon one or more succeeding generations of those victims. In addition, economic victimization could lead to a situation where inequality and marginalization were structured into societies for the future, with consequent criminogenic and victimogenic effects.

222. It was stressed by many delegations that respect for human dignity and the protection of human rights made it imperative that the Congress should, if possible, reach some degree of consensus on the adoption of a draft Declaration with regard to victims. It was widely agreed that the time was now apposite for such a Declaration, and that this unique opportunity must not be missed. The documentary material available to the Congress was of high calibre and should enable the issues to be formulated in an appropriate way.

223. With regard to the question of the definition of victims, and the consequential scope of any proposed Draft Declaration, three principal premises were advanced. These were: (a) that "victims" should be defined by reference only to prevailing national criminal laws; (b) that "victims" should include persons adversely affected by abuse of power taking effect within the national jurisdiction not yet proscribed by criminal or possibly even civil law; and (c) that "victims" should include persons adversely affected by breaches of international criminal law or violations of internationally recognized standards relating to human rights, corporate conduct or abuses of economic or political power.

224. It was generally agreed that any draft Declaration to be adopted by the Congress should at least encompass the first category of victims. It was pointed out in discussion that this category was not a static one, inasmuch as national laws change, sometimes with retrospective effect. In particular, reference was made to the fact that, in some countries, following the overthrow of a previous political régime, abuses such as torture perpetrated upon citizens by state officials of the previous régime had been prosecuted within the category of traditional criminal law. It was also pointed out that it was open to national legal systems to incorporate within internal criminal law certain international standards of conduct; this had occurred in many countries with the adoption of the International Covenant on Civil and Political Rights in respect of such matters as racial discrimination. The process of ongoing adaptation of national criminal law to cope with new forms of victimization was always available; for example, the issue of abuse of computer technology and consequential invasions of privacy was identified as a new area of victimization, which some countries might choose to bring within national criminal law in accordance with their particular needs. The view was also expressed that, if the notion of "victims" were confined to victims of infringements of national criminal laws, then it would not be necessary to define victims in any draft declaration in specific terms inasmuch as a cross reference to current national law would be implicit. Regardless of this point, there was wide general support for the view that at the very least a draft declaration should encompass victims in this traditional sense.

225. As regards the second category, concern was expressed by some countries as to the apparent open-endedness of the phrase "abuse of power". Unless the phrase were qualified in some way, it might be possible to include phenomena extraneous to the main purpose of any such declaration. For example, it might be said that the

impact of labour market policies, by way of disruption of employment or creation of unemployment, could be an "abuse of power" in this extended sense. However, it was also emphasized that many developing countries were aware of situations in which their own citizens had, in their view, been victimized and their best interests disregarded, for example, by activities of transnational corporations. It was suggested that this kind of abuse of power should be within the scope of a draft declaration concerned with the protection of victims whose human rights could be said to be eroded by this kind of abuse. It was also pointed out that the agenda item entitled "Victims of crime" derived from the recommendations of the Sixth United Nations Congress on the Prevention of Crime and Treatment of Offenders pertaining to illegal abuses of power. 106/ Accordingly, the point was made that the mandate of the Sixth Congress and the subsequent decisions of the Committee on Crime Prevention and Control required the present Congress to consider those issues, and indeed to place major emphasis on victims of illegal abuses of power, while also considering victims of traditional crimes. On the other hand, the point was made that, in the context of the deliberations of the Sixth Congress, the term "abuse of power" seemed to refer to criminal abuse of power and that, in any case, concepts and needs were not static, but developed over time.

226. As regards the third category, some countries argued strongly that there was no identifiable body of law which could properly be described as international criminal law and that the reference to internationally recognized standards relating to human rights, corporate conduct or illegal abuses of power was too vague to be meaningful. Others pointed out, however, that international conventions had been elaborated on such matters as torture and that the international community generally regarded such practices as genocide and apartheid as being contrary not only to internationally recognized standards relating to human rights, but also as representing crimes against humanity and thus contrary to international criminal standards. The representative of a humanitarian organization noted that, under the Geneva Conventions, 107/ "grave breaches" of those Conventions amount to crimes under international law. To the extent that such matters were reflected in national law, as with compensation for victims of the holocaust, it was pointed out that the proposed definition of "victim" would cover the situation.

227. The Committee considered the possible means of resolving those differing perceptions and positions. A possible approach which was discussed was that of a two-tiered or two-part document, one part of which would deal with the narrow proposed first category of victims of crime under national law and the other part, with the remaining two categories. If such an approach were adopted, the operative provisions of the first part could be tailored to the degree of support which existed for making provisions for such categories of victims, while the operative provisions of the second part would be much more of an exhortatory kind. However, concern was expressed that the matter should be approached in such a manner as not to involve interference with national sovereignty. Moreover, the suggestion that autonomous international initiatives might be taken or mechanisms created for recourse for victims to an international fund opened up certain questions which might require further consideration. On the other hand, some delegates feared that

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106/ See Sixth United Nations Congress ..., chap. I, sect. C.5, para. (5).

107/ United Nations, Treaty Series, vol. 75.

to relegate non-traditional victimization to a subsidiary part of any proposed draft declaration would be, in reality, to downgrade the importance of that area of victimization.

228. The whole matter of the definition and scope of the term "victims" for the purposes of a draft declaration was considered to be an appropriate matter for consideration in informal consultations, which accordingly took place at various stages during consideration of the agenda item.

## 2. Particular categories of victims

### (a) Victimization of women

229. The attention of the Committee was invited to the sub-topic entitled "Women as victims of crime". General support was expressed for the thrust, approach and focus of the report of the Secretary-General (A/CONF.121/16), which was considered to be all-embracing of the critical issues and possible remedies involved. It was stressed that discussion by the Committee represented a long overdue step designed to protect women against victimizing behaviour which might be condoned in traditional practice or law.

230. It was observed that women were particularly vulnerable to exploitation, to the deprivation of rights and to serious interpersonal violence, particularly sexual assault and domestic violence. It was noted that official recognition of the gravity and extent of female victimization was increasing, as was the effort to respond to the problem more effectively and with greater sensitivity.

231. Great importance was attached to the need to redress crime against women. It was stressed that adequate legal and other responses had lagged behind that recognition. Female victimization had, however, received particular attention in a number of countries. In that connection, examples were cited of concrete measures which were being taken to strengthen the legal status of women, to guarantee equal rights and opportunities, to avoid sexual discrimination and to prevent crimes against women. Those measures aimed at curtailing the underlying causes for female victimization were deemed most valuable.

232. Women tended to be victimized by inequitable treatment and by camouflaged abuses, such as those which frequently occurred in situations of domestic violence. It was pointed out that reducing domestic violence greatly reduced violence against women in general.

233. The gender-based victimization of women constituted a problem "without frontiers", as it existed everywhere to various extents. Manifest and latent violence and discrimination seriously jeopardized the personal and social development of women. This was against the best interests of society. Emphasis was placed on the need to intensify research efforts in order to ascertain and better understand the different forms in which female victimization was manifested in various parts of the world.

234. Discussion ensued concerning the policy approach to be taken with respect to domestic violence. A delicate balance between the need for the privacy of the family and official intervention had to be maintained. There were two distinct models in this regard; one reflected the criminalization of acts of domestic violence, and the other emphasized the welfare of the family and the resolution of

conflicts through means other than those which sought criminal liability. Reservations were expressed concerning reliance on criminal law and procedures, since they per se could never provide a total response to a situation in which so many women had traditionally found themselves. On the other hand, it was noted that effective protection for women could never be ensured until the criminal law and procedures were strengthened. This became apparent with regard to the role and responsibility of the police, who had tended in the past to be reluctant to become involved in cases of domestic violence where the supporting social structure and legal framework were lacking.

(b) Other vulnerable groups

235. It was pointed out that, with regard to traditional crime, offenders and victims were usually from the same socio-economic background and of the same status. Victims were more likely to share common socio-economic, racial and other demographic characteristics with the offenders who had victimized them than with other groups within the same society. In this sense, concern for victims opened up the whole question of conditions associated with crime. Effective crime prevention programmes were also effective programmes for the reduction of victimization. This underlined the need for comprehensive and integrated planning for crime and victimization prevention, a perspective which had also been stressed in the discussion of topic 4, entitled "Youth, crime and justice".

236. It was reiterated that youth was a particularly vulnerable population group, and that the initial lapses of young people into crime often occurred because of a victimizing situation, owing to socio-economic conditions, adult manipulation, blocked opportunities or alienation. In that connection, reference was made particularly to drug abuse patterns and the phenomenon of "street children" who, while victimized themselves, might progressively be co-opted into delinquent activities. Child abuse, both within the family and in institutional contexts, constituted a problem deserving special attention.

237. Other major population groups, such as the elderly, were major victims of the fear of crime, whose pervasive effect could compound their frequent isolation and diminish the quality of their lives.

3. The victim in the criminal justice system

238. It was stressed that victims should have access to criminal justice mechanisms to the extent necessary to ensure that their rights were upheld and services became effectively available. In contrast, where victims' support systems hinged less on criminal justice processes, such access was a somewhat less crucial matter. It was widely accepted, however, that whatever mechanisms were used, endeavours should be made to ensure that redress and support services should be provided promptly, fairly and with the aim of preventing further trauma to the victim as far as possible. It was noted, particularly with regard to criminal proceedings, that the lack of suitable arrangements and insensitive treatment of victims during the trial process could lead not only to their dissociation from the outcome, but also to secondary victimization. Cumulatively, those factors could create a situation where victims increasingly tended to withhold their co-operation from the criminal justice system. The negative social impact upon victims could even, in extreme cases, lead to vigilantism and other undesirable responses. It was seen as

essential that the community, including victims, should have confidence in criminal justice processes. Without that, social justice could not be effectively pursued.

239. The view was also expressed that the right of victims to trigger the criminal justice process into action should be emphasized and facilitated and, furthermore, that in certain kinds of offences the victim should be able to exercise a veto over the initiation of proceedings by the authorities. However, there was little support for the view that a victim should have a right to be heard or to participate in any direct way in the determination of the sentence to be imposed upon an offender once the case had reached the stage of formal judicial proceedings. On the other hand, concern was also expressed that, in some legal systems, the sentencing judge may have no official or accurate knowledge of the impact of the offence upon the victim when deciding on an appropriate disposition. Such knowledge, if brought to the court's attention, would not necessarily have a further punitive effect, but could lead to more humane and just treatment of both offender and victim.

240. Other alternatives to the criminal justice system could also usefully be invoked. In various countries, different forms of community justice had always existed or were being developed. In traditional societies, mediation, arbitration and civil compensation procedures were commonplace. Sometimes these were highly formalized, and sometimes very informal. It was noted that developed nations had much to learn from these kinds of approaches and, indeed, it was stated that initiatives of that type were already being taken in some countries. Such procedures accorded a status to the victim which had not always been maintained in the more complex legal systems of some developed countries.

#### 4. Services and assistance

241. In this context, reference was made to the fact that, in many countries, the provision of victim services and support, and even compensation, was handled as part of the total welfare or social insurance system. In those countries, the criminal law was regarded as a last resort for the victim. The source of injury, disability or loss could be regarded as a fortuitous matter, rather than one upon which precise rights depended. The victim of a violent assault on the person should be treated exactly the same way and with the same consideration for his or her dignity as a victim of an automobile accident, a work-related accident or an accident in the home.

242. It was stressed that the most effective victim services were often those which arose out of victims' perceptions of their own needs, rather than the perception of officials and government agencies. In that respect, community movements and voluntary organizations, including victims' associations, had a crucial role to play and should be supported. The view was expressed that the optimum role of government was one of encouraging and evaluating grass-root movements or voluntary organizations and making further resources available to promote successful initiatives. On the other hand, it was emphasized that this should not be seen as a basis for Governments to evade positive responsibility in that area, particularly with regard to matters of financial support or compensation.

243. In many countries, victim services were seen primarily as part of the totality of social welfare services or compensation schemes. Integrated approaches to crime prevention which curtailed victimization were to be welcomed. Comprehensive

approaches to compensation and assistance to victims, to the extent that they placed victims of crime in a position comparable to that of the victims of other adverse events, were also to be pursued.

#### 5. Restitution from the offender and compensation from the State

244. The Secretariat working paper (A/CONF.121/6 and Corr.1) had drawn a distinction between the concepts of "restitution", which might be obtained from an offender or certain third parties (such as an employer of the offender or one who negligently affords an opportunity for the crimes) and "compensation", which is provided by the State or some other fund set up for that purpose. In theory, at least, restitution will be available for a wider range of damages and would include reparation for both personal injury cases and property damage cases. Compensation provided by the State was normally confined to loss arising from personal injury and might well be on a more modest scale than the measure of damages available in the case of restitution. In the real world, of course, the offender might not be able to pay the restitution for which he was theoretically liable.

245. Support was expressed for the use of restitution as a means of doing justice; it was agreed that the judge ought generally to have the possibility of using restitution as a sentencing tool. The offender should be made to feel responsible for his deed: the payment of restitution thus represented a form of expiation. However, there had been problems with the working of restitution systems. One delegate referred to the fact that, in the past, if the offender, as was quite common, did not pay, it was necessary for the victim to initiate enforcement proceedings, which were far from simple. Another model which might achieve some of the same results as the use of restitution as a criminal sanction was the procedural technique whereby a civil action for damages might be joined to criminal proceedings. Thus both might be speedily and efficiently dealt with at the same time. In some countries, civil proceedings were facilitated by the evidentiary use of the criminal conviction as conclusive proof in a subsequent civil proceeding. The question was also raised of the restitution necessary in certain environmental cases where a whole community might be affected.

246. Several delegates spoke of the matter of disappearances and other abuses. In such cases the victims and their families should receive restitution and an accounting of the events from the responsible authorities or from a successor Government in the event of a change of régime. Important psychological needs had to be met and safeguards introduced to prevent such abuses from being repeated.

247. Some speakers felt that this was not an appropriate place to raise the question of third-party liability, which generally arose in quite sophisticated legal systems, and that such issues were better left in the domain of law other than criminal law. Others believed that, for the sake of completeness, some reference must also be made to that question, which might also involve the State as employer.

#### 6. Training and research

248. The necessity of appropriate training for personnel who deal with victims, particularly at the early stages of victim contact with official agencies, was stressed. Various countries reported that increased attention had been given to the training of the police, particularly with regard to domestic violence and

sexual offences. Many countries also referred to the improved and specialized emergency health facilities which were being made available to victims. The role of voluntary organizations was also highlighted in that regard, as was the importance of self-help efforts and of community support.

249. With respect to research, the Committee particularly welcomed the report of the Secretary-General (A/CONF.121/4), which constituted a unique source of information on redress, assistance, restitution and compensation for victims of crime and of abuses of power. In this connection, the value of research was stressed in the discussion of the draft resolution on domestic violence (A/CONF.121/C.2/L.12). It was recognized that, in the area of research on victims, as in so many others, precise needs were often culture-specific, but that none the less countries could benefit from the exchange and broader dissemination of research findings. It was observed that the facilitation of such dissemination would be of particular benefit to those countries where there was a lack of funds and qualified personnel to permit the necessary research to be conducted. The point was also made that there should be a strong interrelationship between research and policy formulation and application.

## 7. Modalities of action

### (a) At the national level

250. The argument was made by numerous speakers that there should be social, economic and political policies adopted in areas such as health (including mental health), education and general social development which were specifically geared to the prevention of victimization. Both developed and developing countries agreed upon the necessity of elaborating appropriate policies in that regard. Some developing countries indicated that they faced special problems in their efforts to eradicate the last vestiges of colonialism and continuing problems of economic exploitation.

251. It was suggested that the principal strategy for action at the national level was that of re-examining national laws and practices in order to foster the twin goals of preventing victimization and developing appropriate responses when victimization nevertheless occurred.

252. It was reiterated that it was necessary to review laws periodically in order to see whether the criminal justice system was being properly used in relation to instances of the abuse of power, including abuses which had a purely national aspect to them and those which had a transnational character. While some States argued for broad use of criminalization as a method of dealing with abuses of power, particularly economic abuses, other States stressed that the criminal law was only one of many weapons in the legislative arsenal and should often be regarded as a technique of last resort. Various civil and administrative techniques should be tried first. There was also support for the adoption of considerable flexibility and for the notion that different strategies might work better in different societies.

253. Several speakers called for the re-examination of sentencing laws and practices with a view both to taking the needs of the victim into account and to making broader provision for restitution as a sanction available in the sentencing process. It was necessary, however, to make it clear in such cases that

restitution should not be an alternative to normal criminal sanctions and that offenders should not appear to be able to buy their way out of them.

254. A specific aspect of the review of sentencing options that ought to be undertaken, in the view of some representatives, was that of punishment for corporations or other legal persons in those legal systems where they may be held guilty of criminal activities. Experiments were mentioned in the use of public criticism of such entities as a penalty, the loss of their juridical personality and in holding their corporate officers personally liable.

255. Reference was also made to methods of public accountability through institutions such as legislative oversight committees and the ombudsman. The responsibility of public officials, including notably the police and military authorities, might be promoted by the development of a professional spirit and in standards of conduct embodied in codes for such groups. Attention was also drawn to the need for dealing with such abuses as secret places of detention and incommunicado detention by prohibiting such practices.

256. A final strategy for national action emphasized by many speakers concerned the use of publicity with regard to victims' rights. It was reported that, in several States which possessed excellent systems of compensation and victim services, many eligible victims did not make use of available resources. More effective ways had to be found to make people aware of their rights. Personnel working in all areas of the criminal justice and welfare systems needed to be sensitized to the issue.

(b) At the regional and international levels

257. Suggestions for action at the regional and global levels fell into three main categories: (a) the development of further normative standards; (b) the creation of machinery for enforcement and mutual assistance; and (c) certain educational and technical assistance activities.

258. With regard to the development of further standards, reference was made to the need for efforts to deal with a broad range of abuses of power, particularly in the economic and human rights spheres. The need to complete the development of a Code of Conduct for Transnational Corporations was also noted. Mention was also made of continuing efforts to elaborate tighter standards for the protection of the environment, of workers and of consumers. It was noted that the continuing need for conventions to deal with terrorism and with the use of mercenary soldiers had not yet been met.

259. It was recommended that States should be encouraged to enter into more extensive arrangements for mutual judicial and administrative assistance in the detection and pursuit of offenders, including drug offenders, in order to facilitate their extradition, where appropriate. Further efforts were also needed to deal with gross abuses, such as the apartheid system. At least one speaker supported renewed efforts to create an international criminal court.

260. The provision of technical assistance, at both the international and regional levels, was urged as a means of helping Governments to expand their capacity for curtailing victimization and aiding victims. The United Nations crime prevention institutes could play a significant role in that regard. This might be by way of advisory services, training programmes and the dissemination of relevant research.

Ways might also be found to provide training courses for public servants to promote adherence to United Nations norms, such as the Code of Conduct for Law Enforcement Officials. Assistance could be provided to aid in action-oriented victim research and the most effective means of dealing with particular problems.

## 8. Conclusions

261. The Committee discussion served to confirm the multi-faceted nature and the technical complexity of the subject of victims of crime. The difficulties and differing points of view which had arisen in discussion had perhaps seemed greater than they were in reality because of the fact that the issue had not been thoroughly confronted previously. Consequently, clear parameters and patterns of analysis had not evolved. The Congress, it was agreed, had served the invaluable function of charting new ground. In that respect, it was strongly recommended that attention should continue to be given to that issue in the future by the United Nations and the international criminal justice community as a whole so that workable norms and standards could be further developed. The Seventh Congress has taken the matter to the stage where "victims' rights" should henceforth unambiguously be perceived as an integral aspect of the whole justice system.

262. For the consideration by the Committee of the draft resolutions on this item see paragraphs 304, 306 to 308, and 313 below.

### Agenda item 6

#### Youth, crime and justice (topic 4)

263. The Committee considered agenda item 6, entitled "Youth, crime and justice", at its 1st to 7th and 9th meetings, from 26 to 30 August and on 2 September 1985. The item was introduced by the representative of the Secretariat.

264. For its consideration of the item, the Committee had before it the following documents:

- (a) Report of the Secretary-General on the Draft United Nations Standard Minimum Rules for the Administration of Juvenile Justice (A/CONF.121/14 and Corr.1);
- (b) Report of the Secretary-General on research in juvenile delinquency (A/CONF.121/11);
- (c) Working paper prepared by the Secretariat on youth, crime and justice (A/CONF.121/7);
- (d) Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic IV - Youth, Crime and Justice, held at Beijing from 14 to 18 May 1984 (A/CONF.121/IPM/1).

## 1. Dimensions and characteristics of youth crime

265. An initial point of significance made in discussion of this topic was that it was not necessarily correct to presume that there was a world-wide upward trend in youth crime, for example, because of measurement difficulties. One delegate stated that such an assumption caused his country deep consternation. Others stressed that the alienation of youth, which was associated with the trend of increasing youth crime in some parts of the world, had not occurred in their societies. On the contrary, harmony existed between the aspirations of youth and the aims of the State. In those countries socio-economic achievements had produced stability or even a tendency to a decrease in youth crime patterns. The view was expressed that the most relevant of those achievements, from the point of view of stabilizing youth crime trends, were the elimination of unemployment and exploitation, the provision of universal free education, as well as comprehensive social programmes.

266. However, other delegates stated that socio-cultural factors operating in a complex world undergoing rapid change were associated with increasing levels of youth crime. With regard to the characteristics of youth crime, the following three recent trends were identified: youth involvement in drug abuse and drug-related offences; high crime rates involving migrant youth; and changes in the nature of offending by female juveniles.

267. The representatives of many countries expressed grave concern about drug abuse and drug-related crime. It was stressed that youth was often the initial victim in that kind of activity and was often subject to manipulation by adults. Nevertheless, once the abuse of drugs had become established as a pattern, associated crime patterns became a matter of grave social concern. One delegate described youth drug abuse as a scourge and the number one enemy of the nation. Another delegate pointed out that, even in a context where the overall rate of youth crime was stable, there had been a massive recent increase in youth drug abuse and drug-related offences, which indicated the gravity of the problem.

268. Several delegates from developing countries stated that migrant youth were considerably overrepresented in youth crime patterns. This was often associated with movements away from families and traditional backgrounds in search of employment; it was also associated with a situation where the surplus of workers was increasing in capital-intensive labour markets. An equally important aspect of the problem of migrant youth crime was migration from the rural areas to the cities, which was taking place in various countries.

269. With regard to female crime, it was noted that, in many countries, the patterns of such crime were changing noticeably and that the participation rate of females was increasing. This was particularly so in the case of drug abuse, drug-related offences and prostitution. In the latter area, as in so many aspects of youth crime, the young person was extremely vulnerable to adult pressures at the stage of initial delinquency.

270. It was noted by the Committee that, on the whole, offences of violence involving youth had not reached alarming proportions. Certainly, in those countries where there was a general upward trend in youth crime, there was also some increase in youth crimes of violence, but the problem should not be seen as a chronic one.

## 2. Marginalization, victimization and changing socio-economic factors involved in youth crime

271. To the extent that there was an upward trend in youth crime, it was generally accepted that the factors identified in the working paper prepared by the Secretariat (A/CONF.121/7) were associated with that trend. In particular, reference was made to the manner in which traditional means of social control seemed to be breaking down, to problems arising from underdevelopment and rapid development, unemployment and underemployment of youth, rapid population growth, the rural to urban drift and the link between race and economic power. One participant referred to the situation in the anglophone Caribbean Island States as epitomizing the operation of some of the factors identified above, particularly those of race, class and sex. He highlighted the inexorable process by which young persons were pushed into "street life", and referred to the question of child abandonment and "hidden" child labour. Such matters seemed to be structural and emanated from the current organization of society.

272. There was general support for the analysis of the marginalization process set out in the working paper prepared by the Secretariat (A/CONF.121/7). It was also noted that today's youth live in the shadow of the single most profound marginalizing factor in the history of mankind, the possibility of instant nuclear extinction. In such a context, it was hardly surprising that anti-social and self-destructive behaviour was evident from time to time. Nevertheless, it was stressed and generally agreed that socio-cultural factors can be constructively managed and that, if sufficient commitment were made to doing so successfully, then patterns of youth crime could be beneficially affected (see also sect. I below).

## 3. The prevention of youth crime

273. It was widely agreed that a paramount aspect of successful prevention programmes for youth crime was the involvement of youth itself. Sometimes in the past only symbolic attention had been paid to such notions, but it was apparent from the numerous examples given by delegates of Member States from all regions that genuine efforts were now being made in that regard. Such efforts were sometimes risky in the sense that considerable resources of personnel and funds might be committed with no guarantee of a successful outcome. It was agreed, however, in the general discussion that it was essential to mobilize youth itself in crime prevention efforts involving their peers.

274. No less crucial was the involvement of community and voluntary organizations in youth crime prevention projects. In that respect, reference was made to the Tokyo meeting on youth crime prevention and the role of youth organizations, held in July 1985. It was sponsored by the Economic and Social Commission for Asia and the Pacific (ESCAP), the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), in co-operation with the Crime Prevention and Criminal Justice Branch. This regional approach was generally considered to be of great relevance to other regions.

275. In this regard, particular reference was made to the Inter-NGO Programme on Street Children and Street Youth. In the course of the three years of its existence, this Programme has attempted to identify many street children projects of a curative and preventive nature throughout the world. In addition to its information and referral service, the Programme secretariat has published profiles

on both preventive and curative street children projects, and has organized two regional meetings (in Europe and Africa) with a view to creating regional networks of street children projects to plan preventive strategies in the region. Following the African meeting, at Abidjan, Coté d'Ivoire, two subsequent meetings, organized by local groups and including the participation of street children, took place in Dakar and Abidjan. A seminar to discuss preventive strategies in that field is scheduled to take place in the Latin American region later in 1985, organized by UNICEF, the Colombian Institute of Family Welfare and local non-governmental organizations, and supported by the Inter-NGO Programme on Street Children and Street Youth.

276. The contributions made to those seminars represent genuine attempts to address a complicated issue from different approaches and at different levels. Just as the causes of the street children phenomenon lie in a multiplicity of interacting circumstances, so solutions other than institutionalization are multidimensional and inter-disciplinary. The project profiles bear witness to this diversity of approach.

277. In order to avoid the danger of repressive action against street children, it would seem that more co-operation was required between the social services and the legal system. An interesting initiative in some countries, promoted by Governments and private bodies alike, has been the appearance of the "street educator". Those "outreach" teams of educators anonymously approach youngsters and often offer useful tips and contacts for short-term jobs. The originality of the scheme lies in its discretion. The street educators often manage to break through the barrier of mistrust which street youth raise against any would-be do-gooders. If those street youths were to realize that this type of assistance offered to them was a form of "rehabilitation", then the partnership would quickly end.

278. It was generally agreed that co-ordination should be improved between youth, voluntary organizations, other non-governmental organizations working in the area of youth crime prevention, education departments, welfare agencies and families themselves. In some Member States this kind of co-ordination was encouraged under the umbrella of a specialized department for youth affairs or youth commission. However, the caveat was made that the co-ordinated or integrated approach involving such agencies must have clearly defined objectives in each case; it was necessary to identify critical points of intervention if such an integrated approach were to be fully effective.

279. Reference was also made to the need to extend youth crime prevention strategies to the families of delinquents. While family breakdown was quite clearly associated with juvenile delinquency, so also was lack of clear guidance from the family in a situation where breakdown had not occurred. In this sort of situation, intervention by way of counselling of the parental unit could be beneficial as a means of youth crime prevention. That theme emerged very strongly in the course of discussion.

280. Reference was made to the phenomena of unemployment and underemployment. Once more, some countries indicated that this was not a problem for them, while conceding that it may be for others. It was generally accepted, however, that a full employment situation could only have a beneficial impact on patterns of youth crime. In this regard, reference was made to the need to attune better the education system to likely employment needs, the need for specialized technical training and the problems that arose out of unfocused educational objectives.

281. Discussion also ranged over particular techniques or strategies in relation to youth crime prevention, including (a) early intervention by means of pre-delinquency or status offences; (b) better co-ordination between police and youth; (c) restraint upon the glamorization of crime by the media subject to preservation of the freedom of the press; and (d) the development of sporting and recreational facilities for all youth.

282. It was generally agreed that the impact of labelling youth was negative and should, if possible, be avoided. In this regard, there was a wide measure of agreement that diversion methods should be used wherever possible. However, it was also recognized that, just as the community generally had a responsibility to youth, so youth had an obligation to the community.

#### 4. Standard Minimum Rules for the Administration of Juvenile Justice

283. In the course of its deliberations on this subject, the Committee considered the report of the Secretary-General on the draft United Nations Standard Minimum Rules for the Administration of Juvenile Justice (A/CONF.121/14 and Corr.1), a draft resolution on the subject (A/CONF.121/C.2/L.1) and the recommendations of the informal working group concerning the Rules (A/CONF.121/C.2/CRP.1).

284. In the course of a wide-ranging and comprehensive discussion which took place with regard to the report of the Secretary-General, delegates from a cross-section of countries all expressed appreciation of the high quality of work which had gone into producing the draft Standard Minimum Rules for the Administration of Juvenile Justice (A/CONF.121/14 and Corr.1, chap. II), which were so well adapted to the aims and spirit of juvenile justice systems in all parts of the world. In particular, the Government of China was congratulated on its role in serving as host to the Interregional Preparatory Meeting at Beijing, at which the draft under consideration was agreed upon. <sup>108/</sup> The importance of the following four principal areas was stressed: (a) economic, social and cultural differences between Member States; (b) flexibility to take account readily of different juridical concepts and terminology prevailing in Member States; (c) specific detailed problems possibly requiring attention; and (d) whether agreed standards should be spelled out in more detail.

285. The Rapporteur convened an informal group with the friends of the Rapporteur to consider those matters in more detail. The group agreed upon the terms of its recommendations to the Committee (A/CONF.121/C.2/CRP.1). The working group, in recommending that the Committee should deal with the matter in the ways set out in its report, was mindful of several factors that had emerged in discussion. Without exception, speakers had expressed general support for the concept and spirit of such rules and for their adoption by the Congress. Also, it was apparent from the discussion that many States already sought to exceed the minimum standards in many of the aspects covered by the rules. In any case, the adoption of such rules by the Congress would facilitate the improvement and consolidation of present systems. The working group was also mindful of the fact that the accompanying Commentaries should be read as an essential part of the document.

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<sup>108/</sup> For the report of the Interregional Meeting of Experts, see A/CONF.121/IPM/1.

286. Following further discussion, the Committee considered the recommendations of the working group (A/CONF.121/C.2/CRP.1). Draft resolution A/CONF.121/C.2/L.1 was presented to the meeting by the sponsoring States, subject to the amendment contained in A/CONF.121/C.2/CRP.1.

5. Standard Minimum Rules for the Protection of Juveniles Deprived of Their Liberty

287. In introducing draft resolution A/CONF.121/C.2/L.4, the co-sponsor stated that the development of such rules was a necessary complement to the acceptance of the draft standard minimum rules for the administration of juvenile justice particularly in view of the fact that the Standard Minimum Rules for the Treatment of Prisoners did not take into account the special needs of juveniles. At the same time, it had the virtue in procedural terms of finessing the need to raise further substantive questions about the Beijing Rules, in particular the scope of rule 28 (passed as rule 27). Full discussion followed, during the course of which serious concern was expressed about the circumstances and conditions of the incarceration of young persons, particularly with respect to the issue of the incarceration of young persons with adults.

6. Research in the fields of youth, crime and juvenile justice

288. The Committee next considered the report of the Secretary-General, entitled "Research in juvenile delinquency" (A/CONF.121/11). Many delegates, with reference to the report, stressed that it was essential in planning research programmes to take into account the different values, traditions and socio-economic arrangements in the society in question. For example, in those societies which had managed to contain or even reduce the level of youth crime, research programmes should try to identify the factors that had brought about this success, whereas the emphasis in societies where serious youth crime was increasing would naturally be different.

289. Matters associated with crime patterns which were potentially relevant included economic policies, environmental planning, education systems, the situation with regard to family cohesiveness, distribution of population between rural and urban areas, demographic patterns and employment levels.

290. Delegates generally agreed that the most productive point at which to conduct and implement research was that of crime prevention. However, methodologically, that was often the most difficult research to carry out.

291. It was stressed that there often seemed to be a gap between high-quality and perceptive research and policy implementation. Delegates expressed approval of the statement that "attention should also be paid to the application of such research" (A/CONF.121/11, para. 82), that is, by both researchers and policy-makers. Research, particularly in developing countries, should have a clear utilitarian objective, particularly as the allocation of resources to such research was in competition with other social matters of urgent concern.

292. While recognizing that lessons to be drawn from research were inevitably to some extent culture-specific, it was nevertheless stated by several delegates that greater efforts should be made to disseminate the results of such research in a comprehensible form. A starting point would be within the regions, not only

because that process would be logistically simpler, but also because culture-specific limitations of such research would tend to be minimal.

293. In that regard, attention was drawn to the recent meeting in Tokyo arranged jointly by the Economic and Social Commission for Asia and the Pacific (ESCAP) and the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), in co-operation with the Crime Prevention and Criminal Justice Branch (CPCJB). At that meeting, a plan of action for the dissemination of information on youth crime prevention programmes and research within the region was endorsed. It was pointed out that the value of such dissemination of research information would be enhanced for policy-makers if it were distributed in summary form in non-technical language. It was noted that the Tokyo meeting had expressed the hope that its strategy for the dissemination of research findings might be used as an international model, and the view was expressed that this would be appropriate.

294. Several delegates highlighted the following areas in which research seemed required:

- (a) Patterns and causes of female youth crime;
- (b) The participation of young migrants in crime;
- (c) The question of community attitudes towards youth and, in particular, towards former juvenile delinquents;
- (d) The question of child abandonment and abuse, hidden child-labour and the phenomenon of "street children";
- (e) Youth drug abuse, drug trafficking and drug-related offences.

295. The meeting affirmed its belief in the fundamental value of research in the area of juvenile delinquency, while noting the need for such research to be utilitarian and to become integrated into policy development. Committee II then re-constituted itself as the Research Workshop, a report of which is set forth below.

Research Workshop on perspectives in action-oriented  
research: youth, crime and juvenile justice

296. The Research Workshop was organized by the United Nations Social Defence Research Institute (UNSDRI) with the collaboration of the United Nations regional institutes, the Arab Security Studies and Training Center, and other international organizations and institutions. The Workshop took place over a total of three and a half hours on 27 and 28 August 1985. It was chaired by Mr. Manuel López-Rey y Arrojo; Mrs. Simone Rozes and Mr. Farouk Mourad served as Vice-Chairpersons. The Workshop was opened by Mr. Shuaib Uthman Yolah, Under-Secretary-General for International Economic and Social Affairs. More than 100 representatives of national delegations, scholars and researchers attended.

297. The Workshop had before it a basic document, submitted by the Institute, which consisted of 14 regional expert papers and two synthesis papers. It was presented to the Workshop by its rapporteurs, Mr. F. H. McClintock and Mr. T. Asuni, who

respectively covered the two topics on the agenda, namely, "Characteristics and problems of action-oriented research on youth crime" and "Needs and priorities of research on youth crime and strategies of implementation".

298. Participants emphasized in general the importance of research in this field. In particular, they underlined the relationships between research on youth crime and socio-economic development, and policy measures which benefited from such research. Also highlighted was the need for increased collaboration between national, regional and interregional institutes in carrying out mono-cultural, inter-cultural and cross-cultural research, as well as for the timely dissemination of relevant information.

299. The recommendation of the Workshop was addressed to the Congress and was issued under the symbol A/CONF.121/C.2/L.3.

#### 7. Regional, international and inter-agency co-operation for the prevention of youth crime

300. The theme of the need for such modes of co-operation was widely stressed at all stages of the Committee discussions. This manifested itself most markedly in relation to the wide degree of acceptance for the development of international standards and initiatives (see draft resolutions A/CONF/121/C.2/L.1-5). The importance of regional co-operation was particularly noted in the context of research, and delegates welcomed the recommendation of the Committee that a United Nations institute should be set up in the African region. The need to disseminate information on crime prevention measures and research into youth crime was particularly stressed in the discussion of research and in the Research Workshop. Finally, inter-agency co-operation within Member States was emphasized as an essential ingredient of successful initiatives in the prevention of youth crime.

#### 8. Future directions

301. The Committee considered draft resolution A/CONF.121/C.2/L.2, which stressed the need for a total integrated approach to the prevention and minimization of youth crime by taking steps designed to minimize the associated economic, social and cultural factors which could affect youth detrimentally. It highlighted the need to eliminate negative conditions from the life of young persons, such as illiteracy, unemployment, racial and national discrimination and other forms of social inequality. As part of the process of economic and social development, it stressed that all States should take measures for the proper upbringing and education of youth and for the provision of employment for young people, and recommended the involvement of the public in crime prevention efforts. The draft resolution also stresses the desirability of regional and interregional scientific research and the active dissemination of the knowledge acquired about the nature of juvenile crime. The Committee emphasized its view of the critical importance of that issue by requesting that the Economic and Social Council consider specifically the question of economic and social approaches to the prevention of juvenile crime.

## 9. Conclusions

302. The Committee concluded that youth crime was not at a crisis point; indeed, in many societies the phenomenon of youth crime was satisfactorily under control. Nevertheless, even in those Member States where there was no upward trend in youth crime, it was accepted that sensitive intervention modes and prevention techniques should be maintained, improved and further developed. The Committee noted that the youth of today's world would be particularly vulnerable unless the economic, social and cultural environment were managed constructively for the benefit of all members of society, particularly youth.

303. For the consideration by the Committee of the draft resolutions under this item, see paragraphs 305 and 309 to 312 below.

### Consideration of draft resolutions

304. In the course of its deliberations on agenda item 5, Committee II considered the following documents:

(a) Proposed amendments to the annex to the working paper prepared by the Secretariat on victims of crime (A/CONF.121/6 and Corr.1);

- (i) Canada (A/CONF.121/C.2/L.6);
- (ii) Union of Soviet Socialist Republics (A/CONF.121/C.2/L.7);
- (iii) Australia (A/CONF.121/C.2/L.8);
- (iv) Egypt (A/CONF.121/C.2/L.9);

(b) Proposals submitted subsequently as alternatives to the annex to A/CONF.121/6 and Corr.1:

- (i) Draft resolution entitled "Draft Declaration on Justice and Assistance for Victims of Crime" (A/CONF.121/C.2/L.10), sponsored by the United States of America;
- (ii) Draft resolution entitled "Draft Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power" (A/CONF.121/C.2/L.11/Rev.1), sponsored by Argentina, Australia, Canada, Costa Rica, Denmark, Egypt, France, Greece, India, Italy, the Netherlands, New Zealand, Panama, Senegal, the United States of America, Uruguay, Venezuela, Yugoslavia and Zimbabwe;
- (c) Draft resolution entitled "Domestic violence" (A/CONF.121/C.2/L.12), sponsored by Australia, Canada, Costa Rica, Egypt, the Federal Republic of Germany, Greece, Israel, New Zealand, Sweden and the United States of America.

305. In the course of its deliberations on agenda item 6, Committee II considered the following draft resolutions:

(a) Draft resolution entitled "United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")" (A/CONF.121/C.2/L.1), sponsored by Australia, Botswana, China and India;

(b) Draft resolution entitled "Youth, crime and justice" (A/CONF.121/C.2/L.2), sponsored by the Union of Soviet Socialist Republics;

(c) Draft resolution entitled "Research on youth, crime and juvenile justice" (A/CONF.121/C.2/L.3), sponsored by Argentina, Australia, France, India, Indonesia, Kenya, Lebanon, Malaysia, Norway, Saudi Arabia, Sierra Leone, Switzerland, Turkey, Uruguay, Venezuela, Yugoslavia and Zimbabwe;

(d) Draft resolution entitled "Development of standard minimum rules for the protection of children deprived of their liberty" (A/CONF.121/C.2/L.4), sponsored by Argentina, Canada, Costa Rica, Italy, Kenya, the Libyan Arab Jamahiriya, Portugal, Senegal and Switzerland;

(e) Draft resolution entitled "Development of standards for the prevention of juvenile delinquency" (A/CONF.121/C.2/L.5/Rev.1), sponsored by Canada, Chile, Costa Rica, Egypt, France, Greece, India, Italy, Kuwait, Lebanon, the Libyan Arab Jamahiriya, the Netherlands, Qatar, Saudi Arabia and Venezuela.

306. At its 15th meeting, on 4 September 1985, the Committee adopted the draft resolution entitled "Domestic violence" (A/CONF.121/C.2/L.12), as orally revised, by consensus, and recommended it to the Congress for adoption.

307. At its 17th meeting, on 5 September 1985, the Committee adopted the "Draft Declaration of Basic Principles of Justice: A. Relating to victims of crime, and B. Relating to victims of abuse of power" (A/CONF.121/C.2/L.11/Rev.1), as orally revised, by consensus, and recommended it to the Congress for adoption.

308. With regard to the adoption of the Draft Declaration:

(a) The representative of Algeria stated that, in regard to paragraph 18, the term "victims", as defined in this paragraph, could not be applied to individuals or entities wishing to perpetuate or revert to situations of privilege acquired under the protection of previous policies and practices contrary to the rights of peoples to self-determination and independence or wishing to oppose or question the right of a State to legislate economic conditions;

(b) The representative of Burkina Faso expressed a reservation regarding paragraph 12 concerning the compensation of victims by the State;

(c) The representative of Italy stated, in reference to paragraph 16, that steps should be taken to ensure that the witness-victim should, when necessary for his/her protection, be transferred to another residence and made economically independent in his new residence;

(d) The representative of Mauritania stated that his delegation would not be able to support the "Declaration" in so far as it might be in conflict with national law;

(e) The representative of the Niger expressed reservations regarding paragraph 12;

(f) The representative of Norway stated that:

- (i) In regard to paragraph 8, he interpreted the words "where appropriate" in lines 1 and 2 to include, inter alia, due regard to the needs and circumstances of the offender. The interpretation was important because the needs and circumstances of the offender must be taken into account when questions of restitution are decided;
- (ii) With regard to paragraph 9, he said that he interpreted the words "in addition to other criminal sanctions" in line 3 to mean that other criminal sanctions were available to the courts, not that restitution necessarily should or must be used in addition to other criminal sanctions. Restitution might thus also be used as a true alternative to other criminal sanctions;
- (g) The representative of the Union of Soviet Socialist Republics stated that:
  - (i) In reference to paragraph 13, funds other than national funds may be used in cases where the State of which the victim is a national is not itself in a position to compensate the victim for the harm, and that the creation of funds other than national funds might not be regarded as an international obligation imposed upon the State, but should be entirely sponsored;
  - (ii) In reference to paragraph 18, the concept of "victims" cannot be applied to persons who violate the constitution and laws of the State of which they are nationals;
- (h) The representative of the United Kingdom of Great Britain and Northern Ireland stated, in reference to paragraph 6 (b), that, in the view of his delegation, the provisions for victims should not extend in any way to a role in sentencing, case disposal or course of trial. He then made the following observations in regard to the draft resolution on the Draft Declaration:
  - (i) Concerning paragraph 4 (h), he stated that stolen goods found in the possession of the offender should be returned to the owner, but the offender's own assets should not be liable to seizure or confiscation for the purpose of compensation to victims;
  - (ii) Concerning paragraph 5 (d), he stated that international funds and arrangements for international relief of victims would be acceptable, but victims should not be given a right of appeal against a refusal of compensation by a national authority, or a grant of compensation which might be considered insufficient.

309. At its 8th meeting, on 30 August, Committee II adopted the Beijing Rules and the amendments thereto recommended by the informal working group (A/CONF.121/C.2/CRP.1). Subsequently, the Committee adopted draft resolution A/CONF.121/C.2/L.1, subject to the amendments set forth in A/CONF.121/C.2/CRP.1. The Committee recommended to the Congress the adoption of the draft resolution and the Beijing Rules, as amended.

310. In adopting the Beijing Rules, the following commentaries were made:

- (a) The representative of Canada stated that:

(i) With respect to rule 17.1 (a), in the view of his delegation, the rule did not make it sufficiently clear that proportionality should determine the upper limit of intervention. In accordance with Canadian legislation, the "needs" of young persons should not be a basis to extend intervention beyond what is necessary to respond to the offence;

(ii) With regard to rule 21.2, he pointed out that Canadian legislation contained a comprehensive scheme for the access, use and destruction of youth records and that it would be contrary to that scheme if it were requested that all records of young people be destroyed as soon as the person concerned ceased to be a juvenile for the purposes of the Rules;

(b) The representative of Brazil stated that he wished to be associated with the observation by Canada on rule 21.2;

(c) The representative of Chile stated that expressions peculiar to criminal law, such as "guilt", in the context of the Rules were incompatible with the procedures in Chile with regard to minors;

(d) The representative of Finland, on behalf of Denmark, Norway and Sweden, stated, with regard to rules 13 and 26, that experience of the impact of juvenile institutions in those countries showed that it could be harmful to put juvenile offenders together in one place. It was, therefore, the view of those countries that rules 13 and 26 should not prevent States from taking other measures to guard against the negative influences of adult offenders which are at least as effective as the measures specified in the Rules;

(e) The representative of France stated that, concerning rule 11, his delegation observed that the police in France did not have the right to settle cases involving juveniles by way of diversion;

(f) The representative of the German Democratic Republic stated, with regard to rule 26.1, that it was essential that training certificates, awarded after the completion of courses in a juvenile institution, should not indicate the source of the training.

311. Subsequently Committee II adopted, by consensus, the draft resolutions listed in subparagraphs 305 (b), (c) and (e) above, as amended in the course of the respective debates, and recommended them to the Congress for adoption.

312. The Committee adopted the draft resolution entitled "Development of standard minimum rules for the protection of children deprived of their liberty" (A/CONF.121/C.2/L.4) by 43 votes to none, with no abstentions, and recommended it to the Congress for adoption.

313. Owing to lack of time, the Committee was unable to conclude its consideration of the draft resolution concerning the International Year of the Victim (A/CONF.121/C.2/L.8), and so decided to transmit the text to the plenary for consideration and action, as appropriate.

### Action taken by the Congress

314. At the 14th plenary meeting, on 6 September 1985, the Rapporteur of Committee II introduced its report on agenda item 5 (A/CONF.121/C.2/L.14 and A/CONF.121/L.18).

315. The Congress approved the report of Committee II and adopted draft resolutions I and II recommended therein (A/CONF.121/L.18, para. 9), as orally amended. (For the texts of the resolutions, see chap. I, sects. C.4 and C.2, respectively.)

316. After the adoption of the resolution on the Draft Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (A/CONF.121/L.18, para. 9, draft resolution II) reservations were made by the representatives of Burkina Faso and the Niger and observations were made by the representatives of Nigeria, Norway, the Union of Soviet Socialist Republics and the United Kingdom of Great Britain and Northern Ireland.

317. At the same meeting, the Congress considered the draft resolution on the International Year of the Victim annexed to the report of the Committee (A/CONF.121/L.18, annex), sponsored by Australia, subsequently joined by Yugoslavia, in which the Congress would recommend to the General Assembly that it should designate at the earliest possible opportunity the International Year of the Victim.

318. The view was expressed by several delegates that, as the Committee had not been able to discuss the draft resolution because of limitations of time, it was perhaps inappropriate to take action on it without further examination of the matter, including the financial implications. The sponsors subsequently withdrew the draft resolution.

319. At the same meeting, the Rapporteur of Committee II introduced its report on agenda item 6 (A/CONF.121/C.2/L.13 and Corr.1 and A/CONF.121/L.17 and Corr.1 and Add.1).

320. The Congress approved the report of Committee II. It also adopted the five draft resolutions recommended by the Committee (A/CONF.121/L.17/Add.1). (For the texts of the resolutions, see chap. I, sect. C.1, sect. E, resolutions 19, 20 and 21, and sect. C.3, respectively.)

#### D. Report of the Credentials Committee

321. The Credentials Committee held one meeting on 5 September 1985. Mr. V. Esposito (Italy) was unanimously elected Chairman.

322. The Committee noted from a memorandum submitted to it by the Executive Secretary of the Congress that, as at 5 September 1985:

(a) There were 124 States participating in the Congress;

(b) Credentials issued by the Head of State or Government, or the Minister for Foreign Affairs, had been submitted, as provided for in rule 3 of the rules of procedure of the Congress, by representatives of 102 States;

(c) The credentials of representatives of nine States were communicated to the Executive Secretary of the Congress in the form of cables from their respective Ministers for Foreign Affairs;

(d) The representatives of eight States were designated in letters or notes verbales from their respective Permanent Missions (New York or Vienna) or their embassies in Rome;

(e) The representatives of two States were designated in a cable, letter or a note verbale by authorities different from those specified in rule 3;

(f) In respect of two States participating in the Congress, the Executive Secretary had not received any communication regarding the designation of their representatives;

(g) In respect of Namibia, represented by the United Nations Council for Namibia, the designation of its representatives was communicated to the Executive Secretary of the Congress by a cable from the President of the United Nations Council for Namibia.

323. On the proposal of the Chairman, the Committee agreed to accept the credentials of the representatives of the 102 States referred to in subparagraph 322 (b) and of the State referred to in subparagraph 322 (g) above. The Committee further agreed that the communications referred to in subparagraphs 322 (c), (d), (e) and (f) should be accepted provisionally pending the receipt of the formal credentials of the representatives concerned.

#### Action taken by the Congress

324. At its 13th plenary meeting on 6 September 1985, the Congress unanimously approved the report of the Credentials Committee (A/CONF.121/L.19) (see chap. I, sect. E above, decision).

## Chapter V

### ADOPTION OF THE REPORT OF THE CONGRESS

325. At the 12th plenary meeting, on 5 September, the Rapporteur-General introduced the draft report on agenda item 3 (topic 1) (A/CONF.121/L.13 and Corr.1 and Add.1 and 2).

326. Before the consideration of the recommendations and other draft resolutions, the Secretary of the Congress stated that any provisions of those recommendations or draft resolutions that had implications for the programme budget of the United Nations would be brought to the attention of the General Assembly by the Secretary-General at the time when the Assembly considered the report of the Congress.

327. The Congress then adopted the draft report on agenda item 3, as orally amended.

328. At its 13th plenary meeting, on 6 September, the Rapporteur of Committee I introduced its reports on agenda items 4 (topic 2) (A/CONF.121/L.14) and 7 (topic 5) (A/CONF.121/L.16 and Add.1 and 2).

329. At its 14th plenary meeting, on 6 September, the Rapporteur of Committee II introduced its reports on agenda items 6 (topic 4) (A/CONF.121/L.17 and Corr.1 and Add.1) and 5 (topic 3) (A/CONF.121/L.18).

330. The Rapporteur-General made a statement in which he summarized the achievements of the Congress and praised the spirit of international co-operation that had prevailed in every aspect of its work.

331. The Congress then adopted the report as a whole, as amended, and requested the Rapporteur-General to complete the text in the light of the action taken in plenary, and to make the necessary editorial changes in conformity with accepted United Nations practice.

## Chapter VI

### CLOSURE OF THE CONGRESS

332. His Excellency, the Honourable Francesco Cossiga, the President of the Republic of Italy, addressed the Congress on 6 September 1985, the closing day. He said that the work of the Congress was a fundamental step forward in preventing crime and protecting human rights. The new and increasingly international dimensions of crime had created an immense challenge to the international community. Meeting that challenge required determination as well as innovation and action on the conditions, economic and social disparities and other factors which constituted the root causes of different forms of crime.

333. Of major importance was the realization of the need for international co-operation. Only international solidarity, of which the United Nations was a main symbol and instrument, could effectively deal with the problems of the future.

334. The Congress then completed its substantive work and adopted its report.

335. The representative of Senegal introduced a draft resolution (A/CONF.121/L.20), on behalf of Argentina, Bangladesh, Poland, Senegal and the United Kingdom of Great Britain and Northern Ireland, expressing thanks to the people and Government of Italy for their hospitality and for their contribution to the success of the Congress.

336. The draft resolution (A/CONF.121/L.20) was adopted by acclamation. (For the text, see chap. I, sect. E, resolution 24.)

337. Following the adoption of the resolution, the representative of Italy made a statement. Statements were also made by the representatives of Panama and India, in which they referred to the important role played by the Centro Nazionale di Prevenzione e Difesa Sociale. They called for the development of a capacity, linked with the Centro, for the transfer of knowledge and the exchange and dissemination of information at the international level on new developments in crime prevention and criminal justice, drawing on the professional and scientific contribution of intergovernmental and non-governmental organizations and other concerned national and international institutions. Such a clearing-house function would also help to expand the scientific base for United Nations activities in crime prevention and criminal justice as part of its world-wide network of institutions aiding the advancement of knowledge and upgrading expertise in this field.

338. Statements were made by the representatives of Kuwait for the group of Asian States, Poland for the socialist States of Eastern Europe, Argentina for the group of Latin American States, the United Kingdom of Great Britain and Northern Ireland for the group of Western European and other States, Saudi Arabia for the group of Arab States and Senegal on behalf of the group of African States.

339. The representative of Austria made a statement, in which he invited the Congress, on behalf of his Government, to hold the Eighth Congress in Vienna.

340. The Executive Secretary of the Congress made a statement, in which he said that the Seventh Congress had ushered in a new era of progress in the work of the

United Nations in the field of crime. The Congress had adopted important international instruments and the next step was to carry out and then translate those mandates in terms of the programme of work. The criteria for the success of the Congress will be how Governments utilize the results. The implementation of the resolutions will rely heavily on the regional commissions and institutes, as well as the network of national correspondents.

341. The Secretary-General of the Congress made a statement, in which she said that the adoption of major instruments by consensus had been a clear demonstration of the political will of the Member States to reach common solutions to common problems. The Secretariat could now develop a programme on crime prevention and the treatment of offenders based on the support of Governments within an enlarged context. She hoped that the theme of the Congress, "Crime Prevention for Development, Freedom, Justice and Peace", would be an inspiration to delegations to follow up the implementation of the recommendations adopted.

342. The President of the Congress made the closing statement, in which he said that the Congress had emphasized that an adequate response to the threat of crime could only be arrived at if rules, penalties and treatment of crime were convincing and persuasive - if the guarantee of individual rights were not sacrificed on the altar of common interest. The more effective the administration of justice, the more it was able to prove its moral superiority over violent action. Constructive policies were needed in the field of the economy, of fundamental freedoms and of social relationships and a fair international order. It was the battle of peace that summed up the deliberations of the Seventh Congress. As it drew to a close, a great deal was about to start. He said that the seed had now been sown and that it would grow in the future through common efforts and by building on the work begun in Milan.

## Annex

## LIST OF DOCUMENTS

A. Conference documents

<u>Document number</u>	<u>Agenda item</u>	<u>Title and description</u>
A/CONF.121/1	2	Provisional agenda
A/CONF.121/2	2 (b)	Provisional rules of procedure
A/CONF.121/3	2	Adoption of the agenda and organization of work: note by the Secretariat
A/CONF.121/4	5	Survey of redress, assistance, restitution and compensation for victims of crime: report of the Secretary-General
A/CONF.121/5	4	Criminal justice processes and perspectives in a changing world: working paper prepared by the Secretariat
A/CONF.121/6 and Corr.1	5	Victims of crime: working paper prepared by the Secretariat
A/CONF.121/7	6	Youth, crime and justice: working paper prepared by the Secretariat
A/CONF.121/8	7	Formulation and application of United Nations standards and norms in criminal justice: working paper prepared by the Secretariat
A/CONF.121/9 and Corr.1	7	Guidelines on the independence of the judiciary: note by the Secretariat
A/CONF.121/10	7	Model agreement on the transfer of foreign prisoners and recommendations for the treatment of foreign prisoners: note by the Secretariat
A/CONF.121/11	6	Research in juvenile delinquency: report of the Secretary-General
A/CONF.121/12 and Add.1	7	Code of Conduct for Law Enforcement Officials: report of the Secretary-General

<u>Document number</u>	<u>Agenda item</u>	<u>Title and description</u>
A/CONF.121/13 and Add.1	7	Alternatives to imprisonment and measures for the social resettlement of prisoners: report of the Secretary-General
A/CONF.121/14 and Corr.1	6	Draft United Nations standard minimum rules for the administration of juvenile justice: report of the Secretary-General
A/CONF.121/15	7	Implementation of the United Nations standard minimum rules for the treatment of prisoners: report of the Secretary-General
A/CONF.121/16	5	The situation of women as victims of crime: report of the Secretary-General
A/CONF.121/17 and Corr.1 and Add.1	4	The fair treatment of women by the criminal justice system: report of the Secretary-General
A/CONF.121/18 and Corr.1	3	Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies: report prepared by the Secretariat
A/CONF.121/19	3	Guiding principles for crime prevention and criminal justice in the context of development and a new international economic order: note by the Secretariat
A/CONF.121/20 and Corr.1	3	New dimensions of criminality and crime prevention in the context of development: working paper prepared by the Secretariat
A/CONF.121/21	7	Extra-legal, arbitrary and summary executions: note by the Secretary-General
A/CONF.121/22	8	Report of the Congress
A/CONF.121/C.1/L.1	4	Draft resolution
A/CONF.121/C.1/L.2	4	Draft resolution
A/CONF.121/C.1/L.3	4	Draft resolution

<u>Document number</u>	<u>Agenda item</u>	<u>Title and description</u>
A/CONF.121/C.1/L.4	7	Draft resolution
A/CONF.121/C.1/L.5	4	Draft resolution
A/CONF.121/C.1/L.6/Rev.1	7	Revised draft resolution
A/CONF.121/C.1/L.7	7	Draft resolution
A/CONF.121/C.1/L.8	7	Draft resolution
A/CONF.121/C.1/L.9	7	Draft resolution
A/CONF.121/C.1/L.10	7	Draft resolution
A/CONF.121/C.1/L.11	7	Draft resolution
A/CONF.121/C.1/L.12	7	Draft resolution
A/CONF.121/C.1/L.13	7	Draft resolution
A/CONF.121/C.1/L.14	4	Draft resolution
A/CONF.121/C.1/L.15/Rev.2	7	Revised draft resolution
A/CONF.121/C.1/L.16	7	Draft resolution
A/CONF.121/C.1/L.17	7	Draft resolution
A/CONF.121/C.1/L.18	7	Report of the Working Group on the Independence of the Judiciary
A/CONF.121/C.1/L.19	7	Report of the Informal Consultations of Committee I on the Model Agreement on the Transfer of Foreign Prisoners and recommendations for the treatment of foreign prisoners
A/CONF.121/C.1/L.20	7	Basic principles on the independence of the judiciary
A/CONF.121/C.1/L.21	7	Draft resolution
A/CONF.121/C.1/L.22 and Corr.1	4	Draft report of Committee I
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A/CONF.121/C.2/L.1	6	Draft resolution

<u>Document number</u>	<u>Agenda item</u>	<u>Title and description</u>
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A/CONF.121/C.2/L.3	6	Draft resolution
A/CONF.121/C.2/L.4	6	Draft resolution
A/CONF.121/C.2/L.5/Rev.1	6	Revised draft resolution
A/CONF.121/C.2/L.6	5	Proposed amendments to A/CONF.121/6, annex
A/CONF.121/C.2/L.7	5	Proposed amendments to A/CONF.121/6, annex
A/CONF.121/C.2/L.8	5	Proposed amendments to A/CONF.121/6, annex
A/CONF.121/C.2/L.9	5	Proposed amendments to A/CONF.121/6, annex
A/CONF.121/C.2/L.10	5	Draft resolution
A/CONF.121/C.2/L.11/Rev.1	5	Revised draft resolution
A/CONF.121/C.2/L.12	5	Draft resolution
A/CONF.121/C.2/L.13 and Corr.1	6	Draft report of Committee II
A/CONF.121/C.2/L.14	5	Draft report of Committee II
A/CONF.121/C.2/CRP.1	6	Recommendations of the informal working group concerning the Beijing Rules
A/CONF.121/C.2/CRP.2	5	Report of the informal consultations established by Committee II on item 5: victims of crime
A/CONF.121/CRP.1	3	Prevention and control of illicit drug trafficking: note prepared by the Secretariat
A/CONF.121/CRP.2	7	Capital punishment: note by the Secretariat
A/CONF.121/INF.1		Information for participants: background
A/CONF.121/INF.2		Information for participants: list of officers

<u>Document number</u>	<u>Agenda item</u>	<u>Title and description</u>
A/CONF.121/INF.3		List of participants
A/CONF.121/IPM/1	6	Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on Topic 4: "Youth, crime and justice" (Beijing, 14-18 May 1984)
A/CONF.121/IPM/2	4	Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on Topic 2: "Criminal justice processes and perspectives in a changing world" (Budapest, 4-8 June 1984)
A/CONF.121/IPM/3	7	Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on Topic 5: "Formulation and application of United Nations Standards and norms in criminal justice" (Varenna, Italy, 24-28 September 1984)
A/CONF.121/IPM/4	5	Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on Topic 3: "Victims of crime" (Ottawa, 9-13 July 1984)
A/CONF.121/IPM/4/Add.1	5	Addendum: revised draft resolution introducing the draft Declaration on Justice and Assistance for Victims of Crime or Other Acts Involving the Abuse of Power
A/CONF.121/IPM/5	3	Report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders on Topic 1: "New dimensions of criminality and crime prevention in the context of development: challenges for the future" (New Delhi, 22-26 April 1985)

<u>Document number</u>	<u>Agenda item</u>	<u>Title and description</u>
A/CONF.121/L.1	2	Report of the Pre-Congress Consultations held at the Milanofiori Congress Centre, Milan
A/CONF.121/L.2	3	Draft resolution
A/CONF.121/L.3	2 (d)	Organization of work of the Congress
A/CONF.121/L.4	3	Draft resolution
A/CONF.121/L.5	3	Draft resolution
A/CONF.121/L.6	3	Amendments to the draft resolution contained in document A/CONF.121/L.2
A/CONF.121/L.7	3	Amendments to the draft resolution contained in the annex to document A/CONF.121/19
A/CONF.121/L.8	3	Draft resolution
A/CONF.121/L.9	3	Draft resolution
A/CONF.121/L.10	3	Draft resolution
A/CONF.121/L.11	3	Recommendations of the open-ended Working Group on the draft guiding principles (A/CONF.121/19)
A/CONF.121/L.12	3	Draft resolution
A/CONF.121/L.12/Rev.1	3	Revised draft resolution
A/CONF.121/L.13 and Corr.1 and Add.1 and 2	8	Report of the Plenary
A/CONF.121/L.14	8	Report of Committee I
A/CONF.121/L.15	3	Recommendations of the open-ended Working Group: draft Milan Plan of Action
A/CONF.121/L.16 and Add.1 and 2	8	Report of Committee I
A/CONF.121/L.17 and Corr.1 and Add.1	8	Report of Committee II
A/CONF.121/L.18	8	Report of Committee II
A/CONF.121/L.19	2 (f) (ii)	Report of the Credentials Committee
A/CONF.121/L.20	6	Draft resolution

Document numberName of organization

A/CONF.121/NGO/AI 1	Amnesty International
A/CONF.121/NGO/1-3	International Association of Penal Law International Society for Criminology International Society of Social Defence International Penal and Penitentiary Foundation
A/CONF.121/NGO/4	International Alliance of Women International Council of Women International Abolitionist Federation International Catholic Child Bureau All India Women's Conference
A/CONF.121/NGO/5	International Islamic Federation of Student Organizations
A/CONF.121/NGO/6	International Catholic Child Bureau
A/CONF.121/NGO/7	World Federation for Mental Health
A/CONF.121/NGO/8	Withdrawn
A/CONF.121/NGO/9	Howard League
A/CONF.121/NGO/10	World Society of Victimology
A/CONF.121/NGO/11	Churches Commission on International Affairs World Council of Churches Lutheran World Federation
A/CONF.121/NGO/12	Bahá'í International Community
A/CONF.121/NGO/13	International Halfway House
A/CONF.121/NGO/14	Arab Lawyers' Union
A/CONF.121/NGO/15	Brahma Kumaris World Spiritual University
A/CONF.121/NGO/16	International Prisoners' Aid Association
A/CONF.121/NGO/17	International Social Service
A/CONF.121/NGO/18	The Howard League for Penal Reform
A/CONF.121/NGO/19	International Association of Juvenile and Family Court Magistrates

<u>Document number</u>	<u>Name of organization</u>
A/CONF.121/NGO/20	International Association of Chiefs of Police
A/CONF.121/NGO/21	International Association of Penal Law
A/CONF.121/NGO/22	International Association of Penal Law International Society for Criminology International Society of Social Defence International Penal and Penitentiary Foundation
A/CONF.121/NGO/23	International Association Against Torture

<u>Document number</u>	<u>Title and description</u>
A/CONF.121/PM.1	Discussion guide for the regional and interregional preparatory meetings for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders
A/CONF.121/RPM/1 and Corr.1	Report of the European Regional Preparatory Meeting on the Prevention of Crime and the Treatment of Offenders
A/CONF.121/RPM/2 and Corr.1	Report of the Asia and Pacific Regional Preparatory Meeting on the Prevention of Crime and the Treatment of Offenders
A/CONF.121/RPM/3	Report of the Latin American Regional Preparatory Meeting on the Prevention of Crime and the Treatment of Offenders
A/CONF.121/RPM/4	Report of the African Regional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders
A/CONF.121/RPM/5	Report of the Western Asia Regional Preparatory Meeting on the Prevention of Crime and the Treatment of Offenders

B. Other documents

<u>Document number</u>	<u>Title and description</u>
E/1984/16 <u>a/</u>	Report of the Committee on Crime Prevention and Control on its eighth session
E/1985/43 and Corr.1	Capital punishment: report of the Secretary-General
A/CONF.87/14/Rev.1 <u>b/</u>	Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
A/40/482	Report by the Secretary-General on the implementation of the recommendations of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

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a/ Official Records of the Economic and Social Council, 1984, Supplement No. 16 (E/1984/16).

b/ United Nations publication, Sales No. E.81.IV.4.