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REPORT ON THE AFRICAN REGIONAL PREPARATORY MEETING
OF EXPERTS ON THE PREVENTION OF CRIME AND THE
TREATMENT OF OFFENDERS

Note by the Secretary-General

The Secretary-General circulates herewith the report on the African Regional Preparatory Meeting of Experts on the Prevention of Crime and the Treatment of Offenders, which was held at Lusaka, Zambia, from 17 to 21 March 1975. The report is circulated to provide participants at the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders with a full account of the proceedings of the preparatory meeting.

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INTRODUCTION

1. The African Regional Preparatory Meeting of Experts on the Prevention of Crime and the Treatment of Offenders was the fourth of a series of regional meetings convened to discuss the provisional agenda and make appropriate recommendations concerning the preparations for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at Toronto, Canada, from 1 to 12 September 1975, in pursuance of General Assembly resolution 415 (V), annex, paragraph (d). It therefore adopted as its agenda the same one for the Congress as that approved by the Committee on Crime Prevention and Control at its second session held in May 1973 (E/CN.5/494, para. 62) and amended by the Committee at its third session held from 23 September to 3 October 1974 (E/CN.5/516, paras. 151-153).
2. The participants at the meeting are given in annex I. The list of documents before the meeting is given in annex II. The Government of Canada, which is to be the host Government for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, sent special observers to the meeting.
3. The Honourable Mr. Annel M. Silungwe, Minister of Legal Affairs and Attorney-General of Zambia, was elected Chairman of the meeting.
ii. Abdoulaye Diop, Président de Chambre à la Cour D'Appel (Senegal) and Dr. Daniel David Nsereko (Uganda), were elected Vice-Chairman and Rapporteur, respectively.
4. The meeting was opened by His Excellency, Dr. Kenneth Kaunda, President of Zambia, who welcomed the participants and stressed the significance of the meeting in the preparations for the Fifth Congress. He expressed the hope that the deliberations at the African Regional Preparatory Meeting would lead to new opportunities for future international collaboration in the search for more humane solutions to the problems of crime and lawlessness. He pointed out that the complex nature of criminality and lawlessness were closely related to and determined by prevailing economic and social conditions. A more equitable distribution of wealth and social institutions, such as the family, the school and religion of whatever faith, should be recognized as important to the prevention of crime and lawlessness. He noted that a great responsibility rested on the State to remove the conditions under which the individual would be forced to react in no other way except by violence as an expression of his rejection of the rules and laws which infringed upon his rights and dignity. Law enforcement agencies and society, as a whole, must endeavour to make a clear distinction between firmness on the one hand, and ruthlessness, on the other hand.
5. On behalf of the Secretary-General of the United Nations, the Chief, Crime Prevention and Criminal Justice Section, Social Development Division, Centre for Social Development and Humanitarian Affairs, Department of Economic and Social Affairs, conveyed to President Kaunda greetings from the Secretary-General and expressed his sincere appreciation of Zambia's generous offer to provide host facilities for the meeting.

6. The meeting decided to base its work on the documents provided by the United Nations Secretariat and to prepare its report on the basis of the contributions and conclusions arrived at during the meeting. Problems that were related specifically to African interests and experience were to be emphasized. The participants then adopted as the agenda for the meeting, the agenda approved for the Fifth Congress.

DISCUSSION OF THE AGENDA ITEMS

A. Changes in forms and dimensions of criminality - transnational and national

7. At the request of the Chairman, the representative of the Secretary-General reviewed the findings of other regional preparatory meetings nearly all of which had noted not only an apparent but real increase in the criminality of violence, white-collar criminality, female criminality and drug- and alcohol-related criminality. These increases were partially numerical, partially in terms of qualitative dimensions.

8. The participants at the meeting agreed that the Africa countries south of the Sahara had been relatively free from such crimes of violence as robbery and extortion, unlawful diversion or destruction of aircraft in flight, kidnapping of diplomats and other prominent persons, and offences committed by the use of explosives. Nevertheless, a few such incidents had occurred, particularly in areas contiguous to countries with unfriendly Governments where border incursions by mercenaries and agents had taken place and offences committed by the use of explosives had been committed with the aim of disrupting peaceful developments. All Governments represented at the meeting were aware of the potential danger of those offences and had taken legislative and administrative measures to guard against them.

9. The African countries, however, had felt the impact of other forms of criminality which had been relatively alien to the region. Industrialization accompanied by population redistribution, including the growth of shanty towns, and by dissipation of traditional social control organs, such as those of the family, the village community and religion, had resulted in increases of common offences, such as thefts and assaults. In many cases, this increase in common offences was also attributable to an alarming rise in alcohol consumption. Addiction to narcotic drugs had not yet constituted a problem but a rising consumption of cannabis and barbiturates was noted. For example, it was estimated that 10 per cent of the student population of one university used cannabis regularly and some students had experimented with LSD and amphetamines. In most instances, these drugs had been illegally imported.

10. Smuggling of drugs and other contraband, including foreign currencies, constituted one of the new forms of criminality affecting African countries. The smuggling of firearms fell into this category; an offence which, in turn, had contributed to a rise in interpersonal violence. Smuggling offences were being

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perpetrated by highly mobile individuals who could easily escape apprehension by local authorities. This recognition led to a unanimous demand for strengthening the extradition systems between the States members of the Organization of African Unity. It was agreed to draw upon the experiences of other intergovernmental organizations in drafting uniform extradition laws and treaties.

11. One universally experienced and rapidly increasing law enforcement problem was the abuse of the use of motor vehicles, resulting in considerable loss of life and in vastly increased hospitalization costs. It was noted that in the process of development all nations had to go through a phase which included rapid motorization. Yet, there was no reasonable excuse to repeat the mistakes already experienced elsewhere. There was a recognition of the fact that the law enforcement and criminal justice system alone could not cope with this seemingly overwhelming problem and that it would be necessary to resort to public education, strict licensing requirements, anti-alcohol campaigns, and mechanical and technical improvements to solve the problem.

12. A number of participants observed that the problem of the refugees in Africa was creating a new type of criminality. Those unfortunate millions might become criminals by definition when they were compelled to cross international boundaries illegally, seek employment without work permits or trespass on the property of others; frequently they survived only by committing theft and other offences. While this form of criminality had overwhelmed many law enforcement agencies, it was recognized that this was essentially a problem for social services and relief organizations, rather than the police. The meeting noted with satisfaction the efforts of the Organization of African Unity and of the United Nations with respect to the refugee problem.

13. The meeting took note of an increase, in some countries, of offences among public officials and business executives. It was also noted that a relationship existed between an increase in bribery and corruption, on the one hand, and expansion in the manufacturing and distribution capacities of a nation, on the other. Other types of white-collar criminality included such offences as the forgery of bank drafts, violation of exchange laws, clandestine and irregular commercial transactions and practices, and import/export law violations. Inflation had increased the incidence of these offences. Greed was noted to be an unhappy and undesirable concomitant of a dynamic economy. To fight these forms of white-collar criminality, one country had established an anti-corruption squad. The vigilance of law enforcement alone could not guard against these new types of criminality and a raising of standards of ethics among public officials and businessmen had to be attained. In this connexion, the meeting expressed concern about the impact which the mass media might have in stimulating certain forms of criminality and it was noted that for this reason some countries had banned certain films and publications.

14. In the African context, a far greater effort at international co-operation was needed to solve the problems arising from new forms and dimensions of criminality. No country was immune from these developments, and spill-over effects were clearly discernible. Yet neither national nor international efforts by themselves could provide the desired tranquillity and freedom from criminality.

Frequently a combination of international conventions, local laws and educational efforts had to be applied. Sometimes, however, the problem had to be dealt with within the country from which such criminal dangers actually emanated. For instance, illegal immigrants involved in the commission of crimes might be deported for service of sentences in their home countries. Whatever the remedies for a particular crime problem, the meeting felt that solutions should and could be found in a spirit of mutual respect and friendly relationship among the nations concerned.

B. Criminal legislation, judicial procedures and other forms of social control in the prevention of crime

15. The discussion of the agenda item was devoted to the consideration of the relevance and usefulness of present laws and the performance of judicial systems in the African countries. It was considered that a system primarily designed for the colonial period had become too slow and cumbersome to function adequately under the impact of expanding economic activities and complex social change. This made not only for an inefficient system but, in many cases, for an inhumane one as well.

16. The breakdown in cultural systems, particularly of such traditional social control organs as the family and the village community, resulting from industrialization and urbanization, contributed to an increase in such crimes as drug addiction, prostitution and alcoholism, especially among young people. This had tended to multiply the workload of the criminal justice system, thus causing further deterioration of the judicial process. Inadequate physical facilities and shortages of suitably qualified personnel at all levels were cited as factors responsible for the present inadequate functioning of the system.

17. The meeting agreed, therefore, that there was a crisis in the administration of justice and that reforms to bring about improvements were necessary.

18. Several participants recommended the establishment of crash training programmes for the police and magistrates. Several African countries, which at the time of independence found themselves without any professional personnel for their criminal justice systems, had been forced to experiment, in this regard, and the experiments with short courses and the use of para-professionals including lay judges had proved temporarily satisfactory.

19. It was noted that nearly all countries represented at the meeting had introduced additional methods to unburden the criminal justice system of its overload. Thus, the reduction in the charge (correctionalisation) with the resulting simplification and speeding up of trial procedures had been instituted in some Francophone African countries. Similarly, in some Anglophone African countries efforts at decriminalization and depenalization were under way. However, it was noted that in several countries there also existed a tendency to add new offences to the statute books or to increase penalties for offences currently deemed particularly heinous.

20. The meeting also noted that additional methods had been employed to reduce the workload of courts. One of those methods was the use of traditional reconciliation proceedings which had been rediscovered as being both more effective and less costly than court proceedings, particularly in the case of certain minor offences, such as common assaults and property offences. Those proceedings allowed the police to dispose of certain categories of minor offences, subject to judicial review. It was felt that in case of an admission of guilt (plea of guilty) before the police, summary proceedings could be instituted again, subject to judicial review and sentencing. Several participants, however, were apprehensive of the potential danger in relying on incriminating statements made by the accused to the police in the absence of a judicial officer or of counsel or of independent and impartial witnesses.

21. Ideally, every accused should enjoy the right to counsel not only at trial but also during the pre-trial proceedings. That, however, raised the issue of inequality in obtaining legal aid for those accused depending on their status or economic condition. The view was strongly expressed that Governments or bar associations should create public defender or legal aid systems.

22. Recognizing the crisis dimensions of current criminal justice operations, some countries had instituted independent review committees to monitor the functioning of the legal system, including the police.

C. The emerging roles of the police and other law enforcement agencies with special reference to changing expectations and minimum standards of performance

23. The participants noted that in some former colonial countries the image of the police was tainted, owing to the fact that in the past they had been identified with the colonial administration. In order to gain acceptance of law enforcement efforts and to obtain public co-operation, it was considered necessary to improve the police image by embarking upon a vigorous public campaign. Since, even in developed countries, the police had been frequently regarded as protectors of the privileged groups, such public campaigns to improve the police image would be relevant to both developed and developing countries.

24. Many countries had long commenced such efforts. Thus, police athletic clubs and youth brigades had been established to aid juveniles. The police also participated in cultural events and undertook special efforts to assist and befriend children. Educational courses in community relations had been instituted for the police. It was agreed that if families could be involved in police efforts to preserve law and order and if the police could become integrated with the community by being moved away from their barracks and being housed with the rest of the members of the community, law enforcement tasks would become much easier.

25. In view of the fact that, not only policing in general, but also the fulfilment of varied law enforcement tasks of a specialized nature required special aptitudes and training, it was agreed that more selective recruitment campaigns to

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attract qualified applicants should be undertaken. That should be followed by specialized training programmes. Such programmes were already established in a number of countries.

26. An improved image of the police would raise greater prospects of improved standards of performance and protection of individual liberty. In that regard, the meeting noted the mandate of the General Assembly, in its resolution 3218 (XXIX) to the Fifth Congress, regarding the preparation of a draft international code of police ethics and turned its attention to the contents of such a code or set of principles. There was agreement that all law enforcement officers should be bound by the following rules:

- (a) Never to use more force than reasonably necessary to enforce the law;
- (b) To exercise patience and restraint in dealing with the public;
- (c) To extend courtesy to the public in whose service they are employed;
- (d) To discharge their functions impartially without fear or favour.

27. While the need for internal restraints of the power of the police through a vigorously implemented code of ethics was recognized, the meeting also insisted on the preservation of external restraints, such as limitation of the power of the police to detain and question suspects and the use of the exclusionary rules of evidence and other rules of law.

- D. The treatment of the offenders, in custody or in the community, with special reference to the implementation of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations

28. The discussion of the agenda item started on a note of pessimism and frustration, as it was felt that the correctional services had been allocated low priority in national budgets. Lack of funds, facilities and trained staff and the perennial problem of overcrowding of prisons made it difficult to adhere to the Standard Minimum Rules for the Treatment of Prisoners. The interconnexion between the capacity to implement the Standard Minimum Rules and the problem of overcrowding was immediately recognized and dominated the discussion of the agenda item.

29. It was noted with great satisfaction that, among the countries represented, Kenya, Liberia, Senegal, the United Republic of Cameroon, the United Republic of Tanzania, Zaire and Zambia had adopted the Standard Minimum Rules by adaptation in their prison regulations and, in four cases (Kenya, the United Republic of Tanzania, Zaire and Zambia), by legislation. Such actions alone, however laudable, did not ensure the implementation of the Rules and there was unanimity among the participants that with the aid of the United Nations a vigorous programme of implementation should be embarked upon everywhere. Thus, education on the significance and contents of the Rules should be included in the training programme

of all prison staff. It was suggested that the United Nations prepare a training film on the Standard Minimum Rules which, while allowing for local variations, would embody the essence of the Rules.

30. The question of staff recruitment, training and support was discussed at some length. An effective correctional system could not rely on retired soldiers to fulfil complicated human relations tasks without training. Professionalization of corrections, already well under way in some countries, had to be pursued. The role which psychiatry and psychology could play in the selection and training of correctional officers, whose task it was to work with human beings under abnormal conditions, was duly recognized.

31. The meeting addressed itself to the perplexing question of how to relieve prison congestion. Noting that much of prison congestion is due to unjustified and frequently prolonged pre-trial detention, it was suggested that greater use should be made of the bail system. But several participants cautioned that bail might be unreliable in ensuring the presence of the defendant at trial. Moreover, it discriminated grossly between the rich and the poor and failed to benefit the vast majority of offenders who were poor. Experimentation with release on personal recognizance without deposit of money had frequently proved efficient and far less discriminatory.

32. A variety of experiments to alleviate overcrowding had been undertaken in African countries. Fines and withdrawal of licences were being used as a sanction in lieu of imprisonment. But such sanctions might not be appropriate for common offenders. On the other hand, employment on public works and week-end imprisonment were considered to be useful alternatives in the case of non-dangerous offenders who otherwise would serve gaol sentences. Decriminalization of some victimless crimes was recommended, although much progress had not been made in that regard. Some participants felt that resort to traditional sanctions, including victim compensation and reconciliation, could likewise contribute to the alleviation of prison congestion. The use of convicts in agricultural training projects, resorted to in at least one country, had not only reduced the prison population but contributed valuable skilled manpower to society.

33. Lastly, the meeting united in affirming the humanitarian commitment of corrections. Despite widespread reliance on capital punishment, there was a tendency to curtail retributive and severe punishment and the emphasis was observed to be on the re-education of the prisoner for a useful life in the community. It was thought that this humanitarian spirit in current African correctional practice was attributable to the fact that many African statesmen of today had themselves lingered in prisons under colonial rule and had thus experienced the inhumanity and futility of incarceration. The discussion ended on a note of optimism: with exertion of effort, a decrease in prison population and an increase in the regard for the Standard Minimum Rules in Africa was entirely attainable. Indeed, since their independence, the African countries had already made great strides in that regard.

E. Economic and social consequences of crime: new challenges for research and planning

34. The meeting noted that many of the development plans of developing countries concentrated on the economic aspects of development without due regard to social consequences in general and to criminality in particular. It was estimated that a significant percentage of the gross national product in African countries was lost through crime and expenditure for the criminal justice system. In one country cited as an example, the expenditure for the criminal justice system alone amounted to approximately 5 per cent of the gross national product.

35. It was noted with concern that in most African countries Governments had not yet sufficiently recognized the need to create a government agency or co-ordinating body responsible for over-all planning for crime prevention and the treatment of offenders. It was reported, however, that in some countries departmental efforts in this regard had been initiated by ministries of justice and social welfare and by police departments. In several West African countries, efforts had been initiated to engage in over-all national research and planning for crime control. A meeting of researchers concerned with the subject was recently held in Abidjan, Ivory Coast.

36. The participants were unanimous in their recommendation that an African regional centre, possible with national branches, be established under the auspices of the United Nations. The task of such a centre would be to organize research and training for planning the prevention of crime and the promotion of criminal justice within the context of national development.

37. The participants were aware of the fact that the staffing of such a United Nations centre might be difficult in view of the fact that few persons had yet acquired the necessary skills to train those ultimately to be responsible for criminal justice planning. The concepts of the science were as yet undeveloped. Yet, that should not serve as an excuse not to commence the effort.

38. Moreover, the incipient field of criminal justice planning lacked adequate concepts with which to gauge the dimensions of the crime problem, particularly in the context of international comparison. The definitions of crime among different jurisdictions and the cultural significance of given offences might vary even more. The uncertain factor of unreported crime complicated the issues, and the attribution of ideal damage, such as fear or anxiety, as contrasted with real damage, such as loss of life, limb or property, was as yet totally undeveloped. The proposed African Regional Centre for Crime Prevention and Control would have to devote much effort to the development of those basic concepts and schemes of planning.

Annex I

LIST OF PARTICIPANTS

Experts invited by the United Nations

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Annex II

LIST OF DOCUMENTS

<u>Symbol</u>	<u>Title</u>
A/CONF.6/1	Standard Minimum Rules for the Treatment of Prisoners and related recommendations, reproduced from the <u>Report of the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders</u> (United Nations publication, Sales No. 56.IV.4)
A/CONF.56/BP/1	Report of the Asian Regional Preparatory Meeting of Experts on the Prevention of Crime and the Treatment of Offenders
A/CONF.56/BP/2	Report of the Latin American Regional Preparatory Meeting of Experts on Crime Prevention and the Treatment of Offenders
A/CONF.56/BP/3	Report of the European Regional Preparatory Meeting of Experts on Crime Prevention and the Treatment of Offenders
A/CONF.56/Misc.1	Discussion guide for regional preparatory meetings for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

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