

UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL



Distr.
GENERAL

E/AC.57/1982/3
28 December 1981

ORIGINAL: ENGLISH

COMMITTEE ON CRIME PREVENTION AND CONTROL **UN LIBRARY**
Seventh Session

Vienna, 15-24 March 1982

MAR 25 1982

Item 4 of the provisional agenda

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

Note by the Secretariat

INTRODUCTION

1. The Caracas Declaration, unanimously 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, states inter alia 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"; that "criminal policy and the administration of justice should be based on principles that will guarantee the equality of every one before the law without any discrimination, as well as the effective right of defence and the existence of judicial organs that are equal to the task of providing speedy and fair justice and of ensuring greater security of the rights and freedoms of all peoples" and that "continuous efforts should be made to seek new approaches and to develop better techniques for crime prevention and the treatment of offenders and to that end criminal law should be developed in such a way as to play an effective and important role in creating stable social conditions free from oppression and manipulations". In addition, the Declaration states that "Member States should develop an effective capacity for the formulation and planning of criminal policy and that all crime prevention policies should be co-ordinated with strategies for social, economic, political and cultural development". 1/

2. The Caracas Declaration was endorsed by the General Assembly in its resolution 35/171, adopted by consensus on 15 December 1980, in which, inter alia, Governments were invited to make continuous efforts to implement the principles of the Declaration together with the other resolutions and recommendations of the Congress, in accordance with the economic, social, cultural and political circumstances of each country; the relevant organizations of the United Nations system were called upon to take the necessary measures to ensure a concerted and sustained effort to implement the principles contained in the Caracas Declaration, and the Secretary-General was requested to submit to the General Assembly, at its thirty-sixth session, a report on the measures taken to implement the above-mentioned resolution.

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1/ A/CONF.87/14, chapter I.

3. At its thirty-sixth session, the General Assembly, on the basis of the report of the Secretary-General entitled "Crime prevention and criminal justice and development" (A/36/442), adopted resolution 36/21 in which inter alia it reaffirmed that crime prevention and criminal justice should be considered in the context of economic development, political, social and cultural systems and social values and changes, as well as in the context of the New International Economic Order (paragraph 2) invited "Member States to intensify efforts to make the criminal justice systems more responsive to changing socio-economic conditions also through the appropriate development of indigenous forms of social control" (paragraph 3); called upon "the Committee on Crime Prevention and Control, entrusted with the preparation of the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders, to give particular attention, in the formulation of the agenda of the Seventh United Nations Congress, to 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 Strategy for the Third United Nations Development Decade and the 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" (paragraph 6); and requested the Secretary-General, "in reporting to the Economic and Social Council at its first regular session in 1982 on the preparatory work for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, also to take into account the relevant recommendations of the Committee on Crime Prevention and Control at its seventh session, without prejudice to the existing reporting procedures" (paragraph 7).

4. The present note has been prepared in pursuance of paragraphs 5 and 6 of General Assembly resolution 36/21 and in accordance with General Assembly resolution 32/60 and Economic and Social Council resolution 1979/19 which inter alia entrusted the Committee with the function of preparing the United Nations Congresses by submitting appropriate proposals to the Economic and Social Council.

5. It should be recalled, in this connexion, that the Committee began its consideration of the preparations for the Seventh United Nations Congress at its sixth session 2/ where it agreed to recommend to the Economic and Social Council the adoption of four draft decisions on the subject. 3/

6. The Economic and Social Council did not take action on these draft decisions, but at its first regular session in 1981, in its decision 1981/122, requested the Secretary-General, without prejudice to the established reporting procedures of the Committee on Crime Prevention and Control, to submit a comprehensive statement on the preparatory work for the Seventh Congress to the Council at its first regular session of 1982. In accordance with paragraph 7 of General Assembly resolution 36/21, such a comprehensive statement will have to take into account the relevant recommendations of the Committee on Crime Prevention and Control at its seventh session.

2/ See Report of the Committee on Crime Prevention and Control at its sixth session, E/1980/112, chapter IV.

3/ For the text, see ibid., chapter I, Draft decisions II to V.

CHAPTER I. SUBSTANTIVE ISSUES FOR THE ELABORATION OF THE
DRAFT AGENDA FOR THE SEVENTH CONGRESS

7. The identification of the topics for the Seventh Congress, as well as the articulation of the various issues to be discussed under each of them, will be a major challenge for the Committee. In fact, while both the Sixth Congress and the Committee on Crime Prevention and Control at its sixth session recommended limiting the number of agenda items for the Seventh Congress to no more than four, the Caracas Declaration and the 19 resolutions adopted by the Sixth Congress and its various recommendations constitute important mandates for the future, and a framework for the agenda of the Seventh Congress, covering a wide range of issues. Since it is not possible to consider the implications of all these in the limited time span of a Congress, an effort has been made to group together the major issues of concern.

8. In line with the comments and observations of the Committee, which emphasized the need for informal prior consultations with the Secretariat on matters relating to its programme of work, a circular letter was sent out in July 1981 to all members of the Committee, inviting their comments and observations. The letter focused on issues relating to the selection of topics for the Seventh Congress and contained proposals for evaluation by the Committee members on the grouping of the topics for the provisional agenda of the Congress. In making these proposals, the Secretariat took fully into account the suggestions made by the Committee at its sixth session on the possible topics for the Seventh Congress, ^{4/} as well as the relevant resolutions and recommendations of the Sixth Congress. The comments and observations of the Committee's members are reflected, as appropriate, in this Note.

9. From the recent decisions of the General Assembly and Caracas Congress recommendations, the following clusters of items seem to emerge:

- (1) New dimensions of crime prevention and criminal justice in the context of development;
- (2) The criminal justice system and changing socio-economic conditions;
- (3) Youth, crime and justice:
- (4) Victims and victimizers: abuse of power, justice and redress;
- (5) Formulation and application of United Nations standards and norms: the protection of human rights in criminal justice administration.

^{4/} See report of the Committee on Crime Prevention and Control at its sixth session, E/1980/112, Corr.1, paragraphs 54-58.

10. These clusters are not necessarily exhaustive or exclusive: other subjects touched upon by the Congress, also seem to be of concern, for example the question of escalating violence and the relationship between criminality, drug trafficking and abuse. Furthermore, in the period between the Congresses other issues may come to the forefront.

New dimensions of crime prevention and criminal justice
in the context of development

11. The new perspectives of United Nations activities in crime prevention and criminal justice have placed them in the developmental context, and stressed their direct relevance to the quest for a better quality of life. In calling for the implementation of this approach, stressed by the Sixth Congress, and the Caracas Declaration in particular, the General Assembly in its resolution 35/171 identified the main steps required to strengthen international co-operation in crime prevention in the context of development and the New International Economic Order, taking due account of differences in national circumstances, socio-economic and political systems, cultural values, and changing conditions.

12. The viability of this approach has been reaffirmed by the General Assembly at its thirty-sixth session, in resolution 36/21, where concern was expressed at the escalation of crime and violence in many parts of the world and where, in paragraph 6, the basic elements to be considered in the formulation of the agenda of the Seventh Congress have been spelled out, for the attention of the Committee.

13. Consequently the issue of crime and crime prevention in relation to development could provide the main theme for the plenary discussion of the Congress, during which major policy statements are likely to be made, national experiences reported and priority concerns articulated. The plenary will also provide a forum for the exchange of information on the progress achieved in the implementation of the conclusions and recommendations of the Sixth Congress and the ways and means of strengthening international co-operation in this field. The highlighting of developmental issues would be consonant with the views of the Committee that "the relationship between criminality and development is crucial and invites priority attention by the Seventh Congress"; 5/ and would also satisfy "the need for future Congresses to keep the subject of crime and development under review in the context of changing socio-economic conditions", as recommended by the Sixth Congress. 6/

5/ See document E/1980/112, paragraph 58.

6/ See document A/CONF.87/14; chapter I C.3 (16).

14. Already at the Fifth Congress, under the item "criminal legislation, judicial procedures and other forms of social control in the prevention of crime", it was observed that "social development had led to a certain awareness of the difficulties encountered through the present techniques of crime prevention", and that in most countries there were "discrepancies between the norms and criteria of the law and the needs or aspirations of the community governed by that law". The result was that, under those circumstances, "justice seemed unrelated to social reality and that its notions, criteria setting and speech were alien to real life". 7/

15. The same concerns were shared by the Sixth Congress which observed that "lack of consistency between laws and reality was criminogenic and that the farther the law was removed from the feeling and values shared by the community, the greater was the lack of confidence and trust in the efficiency of the legal system". 8/ Accordingly, the Congress recognized that crime prevention and criminal justice "should be viewed within a developmental context and in their interrelationships with economic growth and social change, so as to contribute to the ultimate aim of development which, in accordance with the New International Economic Order and International Development Strategy for the Third United Nations Development Decade, was the constant increase in the well-being of the entire population through its participation in the development process and in ensuring a life worthy of human dignity". 9/

16. The Seventh Congress will take place three decades after the First Congress was held in Geneva, in 1955. Much has changed during this time, not only in the world crime situation, marked by a continuing escalation of certain types of criminality in different parts of the world, but also in the wider context in which crime occurs. The past years have witnessed rapid and profound social and economic changes in most countries. To many States of the Third World, they have brought independence and the challenge of translating their goals into concrete planning and programming. In doing so, many countries have been faced with the gap between indigenous practice and traditions and imported and often ill-suited laws and procedures dating from colonial days or subsequently emulated in the illusory belief that "other is better". Such laws often fail to provide meaningful and expeditious justice under conditions likely to engender and perpetuate alienation of the people from a formalistic system removed from local realities. For these reasons, and because of the possible lag between law and socio-economic reality, criminal law and the justice machinery tend to be dysfunctional and not always consonant to changing conditions.

7/ See document A/CONF.56/10, paragraphs 122, 125 and 131.

8/ See document A/CONF.87/14/Add.1, p. 21.

9/ Ibid., p. 34.

17. It should also be noted that the area of crime prevention is one in which the distinction between developed and developing countries tends to be blurred, some of the most developed countries being the most affected by problems of delinquency and crime; and many developing countries finding to their dismay that some of the gains of development are being offset by increasing social disruption, insecurity and crime. The exchange of experience and expertise in this area is of particular importance: from successes or failures lessons for the future can be drawn and new strategies developed, utilizing interdisciplinary research and innovative solutions to seemingly intractable problems.

18. Regrettably, even where efforts have been made to modify the approach so as to cope more effectively with new and emerging problems of crime, only partial success has been achieved. Many of the priority concerns of both developed and developing countries have remained largely unmet, including proliferating economic crimes, (inter alia including consumer fraud), committed often on a massive scale to the detriment particularly of developing countries ill-equipped to deal with them; proliferating violence of different kinds and, perhaps most alarmingly, abuses of public power victimizing individuals, groups and entire nations, compromising the basic tenets of justice and offering no prospect of redress.

19. The wider perspectives of the International Development Strategy for the Third United Nations Development Decade, and the proposals for a New International Economic Order, reflect the aspirations of the world community to eliminate the widening gap between the developed and developing countries and ensure economic and social development, peace and justice for present and future generations. They underline the intrinsic quest for dignity and social justice, everywhere and for all, as full partners in the development process and as recipients of its benefits. As such, these perspectives are in line with the Committee's view that it is necessary to "relate the Congress agenda to the mainstream of United Nations preoccupations, such as the New International Economic Order, with special attention given to activities interfering with its achievement and developmental progress". 10/

20. While not readily apparent, there are certain intrinsic linkages between the felt need for a new crime prevention and criminal justice order and the quest for a more equitable situation globally, as reflected in the International Development Strategy for the Third Development Decade and the New International Economic Order. Criminal justice systems in most parts of the world, founded on the declared principle of equality before the law, in practice tend to be skewed against the powerless or disadvantaged segments of the society. It was suggested at the Caracas Congress that a really fair criminal justice would have to include a corrective factor to redress these inherent inequities and that the quest for a more humane, more equitable and democratic justice should be affected by criminal law, 11/ as the New International Economic Order envisages measures to correct inequalities and redress existing injustices.

10/ See document E/1980/112, paragraph 58.

11/ See document A/CONF.87/14/Add.1, p. 12.

21. In this pursuit and in the inexorable progression of development, with the changes accompanying it, crime prevention and criminal justice could, and indeed should, play a particularly important role. Thus, criminal justice is not only to serve as a guardian of order, security and peace, but also to be an active instrument to promote economic and social progress, in accordance with national priorities and requirements. At the same time, it has to provide a tool of control and redress against illicit practices and inequities which may seriously impair the development process and impede the attainment of national aims, as well as of internationally postulated goals for world-wide progress and a better life for all.

22. The increased emphasis on human rights world-wide has sharpened the awareness of injustices and raised the expectations of people with respect to their criminal justice systems. While far from being universally observed, the human rights recognized by United Nations instruments have come to be acknowledged by law enforcement, the judicial and the correctional personnel. But failure to bridge the gap between raised expectations and realities tends to increase frustration and can lead to outright violence, apt to undermine not only the legal system but the very foundations of a society.

23. The reality of the interdependence of States, the transnationalization of crime, and its significant increase lend emphasis to the necessity for intensified international co-operation in this sphere. This objective, and the need for devising new strategies and structures to correct existing inadequacies, have been clearly articulated by the General Assembly at its 1981 session when it called on the Committee on Crime Prevention and Control "to give particular attention, in the formulation of the agenda of the Seventh United Nations Congress, to 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 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".

24. The work programme for the 1982-1983 biennium and the medium-term plan include the essential elements of a new developmentally-focused approach. The world survey of crime trends and crime prevention strategies will provide an overview of the situation in the light of which the requirements and prospects can be gauged. The project on socio-economic and cultural factors and crime, initiated this year, is already yielding some interesting results. Work on crime and the New International Economic Order and that on crime and the abuse of power, having surveyed its variegated aspects, will provide additional significant substantive input for the discussion on this item.

25. The determination of possible relationships between certain dysfunctional aspects of development and criminality (for example rapid urbanization without a corresponding degree of industrialization; imbalances between educational and employment opportunities, etc.), and the formulation of crime prevention strategies in the context of overall development planning requires - as the Caracas Congress emphasized - an

interdisciplinary, intersectoral approach, with the participation of experts in criminology and all other fields concerned, and recognition of the special role of planners. It is hoped that the preparatory work of the Congress will provide full scope for such broad-based collaboration, with input from various sectors and disciplines. In this connexion, special attention is expected to be given to the interfaces between socio-economic change and crime prevention and criminal justice policies, including the social lag between existing structures and new realities, the contribution of indigenous practices and traditions and the impact of changing expectations on the criminal justice system.

26. The guiding principles for crime prevention and criminal justice which are likely to emerge from those preparations could constitute the framework for action at various levels - national, regional and international. While providing a set of standards to promote integrated criminal justice systems with coherent objectives, based on the observance of fundamental human rights and social justice, and designed to reduce the social cost of crime, to ensure the responsiveness of the criminal justice system to socio-economic conditions and stimulate developmental aims, these principles should also have the necessary flexibility to allow for adjustments to particular national circumstances and changing situations. While always cognizant of the need to take into account varying socio-economic and cultural factors, the guiding principles will have to pay due respect to universally applicable concepts of justice and equity. This means that the system of justice should be used to promote certain universal goals, such as respect for human dignity and the observance of human rights, while at the same time keeping the system of justice responsive to changing social needs, and capable of serving as a progressive instrument of development. Ways and means of strengthening international co-operation in this respect need to be further explored.

27. In elaborating a set of guiding principles for discussion at the Congress, it would be necessary, well in advance of the Congress, to identify and conceptualize such principles and to ensure their applicability in practice. The entire process of exploration and formulation of possible guiding principles would require contributions by expertise at the highest level. In guiding the preparations for the Congress, the Committee could greatly benefit also from the contributions of the United Nations network of regional and interregional crime prevention institutes, IGOs, NGOs, national correspondents and collaborating institutions and experts. How these resources and facilities are used may well determine the success of the Seventh United Nations Congress.

The criminal justice system and changing socio-economic conditions

28. The Fifth United Nations Congress recommended that "all countries should strive constantly to re-evaluate their criminal justice systems in order to adapt them to current social needs" ^{12/} in the recognition that the

^{12/} A/CONF.56/10, paragraph 191.

criminal justice system should be reformed "so as to be more responsive to contemporary social necessities, the aspirations of the whole population and the demands of a scientific evaluation of needs and means in preventing and containing criminality". ^{13/} The complexity of such a task is universally recognized, since if a criminal justice system were to vacillate constantly, it could not guarantee the communal stability which is requisite for beneficial social change.

29. More specifically, the attention of the Committee is drawn to the call of the Caracas Declaration for the development of an effective capacity for the formulation and planning of criminal policy, to be co-ordinated with strategies for social, economic, political and cultural development (paragraph 3), and for a co-ordinated approach to the criminal justice system (paragraph 8) ensuring that those responsible for the functioning of the criminal justice system should be qualified for their tasks (paragraph 5); and the promotion of scientific research (paragraph 4).

30. The Committee had observed at its sixth session that the Seventh Congress should deal with the areas which had not yet received sufficient attention, for instance the utilization of scientific contributions in the criminal justice process, and recommended that attention should be given to "the police ..., and the training of law enforcement, judicial and correctional personnel". ^{14/}

31. Drawing on these recommendations and observations, the Committee may wish to consider whether a topic devoted to these aspects under a collective title, such as "the criminal justice system and changing socio-economic conditions" should be included in the provisional agenda of the Seventh Congress.

32. The following sub-topics might fall under this item:

- (i) The need for a systematic approach to criminal justice, and the scope of crime prevention planning in the context of national development;
- (ii) The role and training of criminal justice personnel;
- (iii) The involvement of the scientific community, and the utilization of its output in the improvement of the criminal justice system;
- (iv) Institutional and other reforms necessary to make criminal justice administration more suited to existing needs and more responsive to socio-economic change.

33. The need for the criminal justice system to be considered as a whole, i.e., as a system has been demonstrated by recent research carried out in

^{13/} Ibid., paragraph 134.

^{14/} See document E/1980/112, paragraph 56.

some developing and developed countries. These studies have reinforced the growing appreciation of the fact that what is done in one part of the system affects what happens in others, with general significance for the performance of all parts. The overall effectiveness of the criminal justice system, as measured against the goals to be achieved by it, e.g., containment of criminality and speedy and fair dispensation of justice, depends not only on the performance of its specific identifiable component parts, including legislatures, the police, prosecutors, judges and correctional services, but also on their interaction.

34. The interaction effect applies in both directions, i.e., not only do the criminal policies and activities of law enforcement agencies affect the courts and corrections, but an opposite process also occurs. Until now these components have been analysed mostly separately from one another. It is proposed that the emphasis, on this occasion, should be on the relationship and inter-linkages between the various criminal justice sectors, as measured, for instance by the communication flow and reporting and consultation procedures within and among them. The amount of scientific research on this question is considerable, and in some countries it is beginning to have an impact on the structure and performance of the whole system.

35. Each national criminal justice system inevitably has its unique characteristics, and all operate in their own socio-economic and legal contexts. The result is an array of different, sometimes irreconcilable, provisions and practices. An intimate knowledge of the functioning of the whole criminal justice system would facilitate productive analyses and exchanges of information on such topics as alternatives to incarceration, the concept and practice of diversion, including popular participation, assumptions concerning hidden delinquency, the latent and manifest relationship between the components of the criminal justice system, and the discretion that is exercised in terms of different categories of crime, at various levels.

36. This approach to criminal justice would permit identification and analysis of the constraints which impede the flow of information within the various sectors of the criminal justice system, thus hindering crime control as a total activity and frustrating the aim of fair and speedy trials. Exchanges of views on the functioning of the particular sectors of the criminal process may provide useful information on both the impact of these constraints on criminal policies and the sources of these constraints.

37. In this connexion, criminal justice systems are seen as important instruments of society, intimately linked to socio-economic, legal and cultural development. The resources allocated to the maintenance and functioning of specific parts of the criminal justice system bear relations to the allocation of other areas of national development plans. In fact, it was observed in the first United Nations World Crime Survey that "economically less developed countries put appreciably more resources into police forces than into other criminal justice agencies" and that "both economic and educational indicators of development are related strongly to the levels of judicial and correctional manpower". ^{15/}

38. The utilization of scientific contributions in the improvement of the criminal justice system, could be considered in two ways. As was briefly noted, criminological literature now reflects evidence of a focus on the

^{15/} See document A/32/199, paragraph 48.

criminal justice system as a whole. Most research is grouped into two related categories: (i) analyses of patterns of changes in external factors (for instance demographic variables, labour market) and the consequent response of the criminal justice system, and (ii) analyses of various sectors of the system, internally.

39. Although research in crime prevention and criminal justice plays an important role academically, it is only in few countries that it produces an impact on the relevant decision-makers at the policy or operational levels. Efforts are needed to improve communication channels, and to bridge the gap between research and analysis on the one hand, and decision-making and policy on the other. The third sub-item of this topic, thus, would address itself to practical ways and means of dealing with this issue.

40. Finally, and with reference to the fourth subitem of this proposed topic, broad as well as specific reforms relating to both, overall problems and certain special issues would have to be identified, with appropriate modalities for their implementation in order to make the system more effective and responsive, with due regard to the recognized principles of human rights and fundamental freedoms of all those involved.

41. There is an alternative and somewhat more modest way of dealing with the topic of "The Criminal Justice System and changing socio-economic conditions", namely that of focusing on the position of law enforcement within the system, as was proposed by some members of the Committee. The justification for focusing on the police in this context derives from various factors:

- (i) The police perform the intake function for the whole system. In practice very few persons become involved with the other components (i.e. courts, corrections) without having been referred by the police;
- (ii) The police are the criminal justice agency which is most exposed to the public, and their relationship with the public is a major factor in the general esteem and regard in which the justice system is, or is not, held. At the same time, while being the most visible, the police also tend to be the least monitored or accountable. "Who guards the guards" remains an important problem of criminal justice, particularly in respect of the police;
- (iii) In many cultures the police have developed a highly structured informal culture of their own, much more so than other agencies of criminal justice. While this is both inevitable and largely beneficial, it reinforces the tendency of the police to become a society unto themselves;
- (iv) The police perform many functions other than detection and crime control, including social and emergency work. The trans-sectoral significance of police work has remained largely unexplored, despite its social implications.

42. In many countries scientific research in recent years has been paralleled by a growth of interest on the part of senior police officials and the scientific community in the philosophy and practice of policing. Thus, theory,

knowledge and praxis are changing considerably in the decade between the Fifth and Seventh Congresses. Probably the most significant feature is the growth of the movement towards community policing, policing by consent, and other concepts which have in common the aspect of greater integration of police into the community they serve. By contrast, the view that much police work, at least in crime prevention and control, is intrinsically and inescapably repressive is also strongly defended. This argument has tended to accompany the development of specialized units within police forces, some of which are barely accountable even to their peers. This area of social policy and analysis, concerning objectives and priorities, on the one hand, and social constraints and accountability, on the other, requires continuous discussion and development. The Seventh Congress would be an appropriate and timely forum for the consideration of this matter.

43. If the discussion were limited to the police, the stress on the utilization of scholarly contributions would be focused on new research for the improvement of policing. This could involve appropriate priorities and effective methods of policing, involvement of the police in diversion procedures, auxiliary policing by voluntary staff, and the criminological training of police officers. The discussion could cover also the area of community-police relations in light of criminological research, including the interaction of the police with other agencies of the criminal justice system and identify areas for reform, taking in due account socio-cultural conditions.

Youth, crime and justice

44. A variety of factors contributed to the strong emphasis placed by both the Committee on Crime Prevention and Control and the Sixth Congress on the special problems of youth within the realm of crime and justice:

- The debate at the Sixth Congress on this topic, successful as it was, made it clear that the subject required far more attention at the international and national levels;
- There is widespread recognition that, for decades to come, the proportion of youth among the population, especially in developing countries, will increase persistently;
- For that reason, and in the context of rapid urbanization - without corresponding increases in employment opportunities - the proportion of young offenders seems to increase disproportionately;
- Existing employment opportunities for youth are declining in many parts of the world, due to economic depressions, recessions and inflation.

45. In sum, in the contemporary world youth all too often falls victim to social problems and, when denied social justice, often comes to the attention of criminal justice.

46. The year 1985 has been proclaimed International Youth Year and Member States have committed themselves to joint and collaborative efforts to ensure that youth will receive and retain full rights of participation in national development and a full entitlement to the benefits of development. The Seventh Congress coincides with International Youth Year and, thus, has the unique opportunity to contribute its share to the achievement of its goals.

47. The Sixth Congress, by resolution 4, recommended that "the Committee on Crime Prevention and Control should be directed to develop standard minimum rules for the administration of juvenile justice and the care of juveniles, which can serve as a model for Member States". The Congress also recommended that the Secretary-General should report to the Seventh Congress on the progress achieved in the formulation of the proposed standard minimum rules.

48. Recognizing that a high degree of attention should be paid to the ways in which juveniles are being prepared for their entry into full-fledged participation in the development of their nations and affirming that standard minimum rules for the administration of juvenile justice are important in protecting the fundamental human rights of juveniles who have run into difficulties during their maturation years, the Sixth Congress directed that the rules should reflect the following four basic principles:

- (1) Juveniles in trouble with the law should be provided with carefully defined legal protections;
- (2) Pre-trial detention should be used only as a last resort and no minors or juvenile offenders should be held in a gaol or other facility where they are vulnerable to the negative influences of adult offenders and account should always be taken of the needs particular to their age;
- (3) Juvenile offenders should not be incarcerated in a correctional institution unless adjudicated of a serious act involving, above all, violence against another person or of persistence in committing other serious offences; moreover, no such incarceration should occur unless it is necessary for their own protection or unless there is no other appropriate response that will protect the public safety, or satisfy the ends of justice and provide the juvenile with the opportunity to exercise self-control;
- (4) The community of nations should do all it can to provide the means by which all young persons can look forward to a life that is meaningful and valuable to them, to their community and their countries.

49. Within the framework of these broad principles, the Committee may wish to determine the range and scope of issues to be considered under this agenda item. The recommendations of the Sixth Congress appear to suggest a two-part exercise: (1) development of a set of propositions calculated to ensure for youth a meaningful life in their communities which, during their most crime-prone age, will ensure a process of maturation as free from crime as possible (principle 4); (2) formulation of a set of guidelines specifically ensuring for young persons in trouble with the law a procedure calculated to minimize any adverse impact of the criminal justice system upon them, and to maximize the process of their integration into the life of the community and the nation as fully participating members (principles 1-3).

50. In this connexion, the attention of the Committee is drawn to the Declaration on the Rights of the Child and article 10 of the International Covenant on Economic, Social and Cultural Rights. Reference should also be made to the current efforts of the Commission on Human Rights to develop a Convention on the Rights of the Child.

51. The regional institutes have already been invited to contribute to the work of the Committee in developing the standard minimum rules for the administration of juvenile justice and the care of juveniles. The preliminary contributions of the institutes will be submitted to the Committee as soon as they become available.

52. The mere existence of international instruments for the care and protection of young persons by itself does not confer the necessary care and protection. National enabling and implementation legislation, as a follow-up, is always needed to ensure the application of the instruments adopted. Inasmuch as many countries have encountered difficulties in implementing such international instruments, the Committee may wish to accord particular attention to the problem of implementing any resulting standard Minimum Rules for Juvenile Justice. Even where a political recognition of the needs of youth and the will to provide for them genuinely exist, economic, social, cultural or administrative constraints may frustrate the political will.

53. The Committee in formulating the proposed standard minimum rules for the administration of juvenile justice and for the care of juveniles may wish to encourage the co-operation of the United Nations institutes, as envisaged by resolution 4 of the Caracas Congress, particularly so as to ensure that the requisite research for it be conducted cross-culturally and comparatively. The United Nations Social Defence Research Institute could co-ordinate the activities of the regional institutes and use inputs from their research findings, as well as inputs from its own research activities, to provide a global overview of juvenile delinquency and to suggest areas for more fruitful international co-operation.

Victims and victimizers: abuse of power, justice and redress

54. The Sixth Congress on the Prevention of Crime and the Treatment of Offenders considered the question of "Crime and the abuse of power: offences and offenders beyond the reach of the law?". In this connexion the Congress adopted three resolutions, dealing respectively with extra-legal executions (resolution 5), torture and inhuman treatment (resolution 6) and prevention of the abuse of power (resolution 7). In the preambular part of the latter, the Congress pointed out that "abuses of economic and political power cause great material and social harm, undermine economic and social development and impair the quality of life of peoples throughout the world", and that "criminal justice systems in most countries are designed primarily for the prevention and control of conventional forms of crime". Accordingly, the Congress emphasized "the need for urgent and incisive action to prevent, prosecute and control abuses of economic and political power wherever they may occur, and to make criminal justice more responsive to contemporary needs and able to cope more effectively with such abuses".

55. To this end, the Congress called for a number of measures, including the development of more effective international, regional and national strategies for the prevention, prosecution and control of abuses of power; the collection, analysis and dissemination of information concerning them; research on various aspects of the problem (including offences against consumers, the environment and corruption); training at various levels to

help combat such abuses; the development of guidelines and standards to minimize them, and the intensification of co-operative efforts for dealing with abuses of economic and political power extending beyond national boundaries and territorial jurisdictions. Work has been initiated in pursuance of these mandates, but in view of the scope of the problem and comprehensive action required, it is clear that only limited inroads can be made in the few years ahead, and that further consideration of the salient issues - in light of the results achieved and the tasks yet to be discharged, as well as recent developments in this area - will be necessary at the Seventh Congress.

56. At the Sixth Congress, corporate crime was deemed to be a particularly difficult, invidious and costly problem impairing human well-being, calling for concerted multi-level measures. The resolution adopted singled out for special attention abuses of power by transnational corporations with their deleterious consequences, often because of the inability of affected countries, especially developing countries, to deal with them effectively. In view of the negative impact of the economy and the impoverishment of the quality of life attributable to increases in this kind of criminality, there is an urgent need for action on restructuring the international economic order and for strengthened international co-operation to check the damaging effects of certain activities of the transnational corporations, as well as other abuses of economic and public power, such as corruption. Combined efforts at the national and international levels were called for, as were - as a matter of priority - measures against infringements of fundamental human rights, such as torture, political murder, abduction and "disappearances". The need for reparations and compensation of victims of such abuses, in appropriate circumstances, was noted with a view to follow-up action.

57. In considering possible topics for the Seventh Congress, it was suggested at the sixth session of the Committee on Crime Prevention and Control that the agenda items should relate to the resolutions and recommendations of the Sixth Congress, focusing on areas which had not yet received sufficient attention such as the prevention of discrimination in criminal justice and the compensation of victims, especially victims of the abuse of power. ^{16/} Focus on this last-mentioned aspect would be in line with the increasing concern with this question in the face of the apparently growing scale of abuse in various parts of the world, evidenced, for instance, in the action taken by the General Assembly at its last session in establishing the Voluntary Fund of the United Nations for victims of gross and flagrant violations of human rights (General Assembly resolution 35/190). It was also stressed that the whole matter of international crimes, such as genocide, apartheid and other crimes contravening United Nations conventions, should receive in-depth criminological attention, with a view to developing an international criminal code and provisions for its application. ^{17/}

^{16/} See document E/1980/112, paragraph 56.

^{17/} Ibid., paragraph 57.

58. The Committee might now give more specific indications of the directions to be pursued in the preparatory work on this prospective Congress item. It is envisaged that a multi-faceted yet focused approach would provide the necessary scope, combined with concrete proposals for action. In line with the Sixth Congress and Committee recommendations, attention would be paid to both the perpetrators (including authorities and commercial enterprises) of criminal abuses of economic and political power and to their victims, (particularly disadvantaged and vulnerable victim groups). The process of victimization itself will be considered, taking into account recent contributions in the area of victimology. An attempt will also be made to analyse the dynamics of abuses of power, as recommended by the Sixth Congress, with the aim of forestalling them as far as possible.

59. In order to promote the observance of the principle of equality before the law, without discrimination, with speedy and fair justice and "greater security and protection of the rights and freedoms of all people", the translation of these principles into actual practice would be a major concern in the quest for real equity and "social criminal justice". The provision of adequate avenues of redress and of restitution to victims of crimes in general and of illegal abuses of power in particular would receive special consideration, with the focus on groups of particularly affected victims: the aim would be to present, for possible adoption by the Seventh Congress, draft principles for the protection of and restitution to such victims, and for measures against their perpetrators. Attention will be given to the need for better protection of potential victims, particularly the vulnerable population groups such as the aging, the disabled, women, children and youth. In this connexion, emphasis will be placed on measures to prevent exploitative practices and violence against these groups, and on remedial measures, including victim compensation schemes involving, also, the offenders' contributions.

60. The preparatory work for this item will be carried out in co-operation with other relevant parts of the United Nations system. The Committee's advice is being sought regarding the coverage and structuring of this wide-ranging topic with a view to yielding maximally productive results.

Formulation and application of United Nations standards and norms:
the protection of human rights in criminal justice administration

61. The attention of the members of the Committee is drawn to the resolutions of the Sixth Congress on alternatives to imprisonment, the development of measures for the social resettlement of the imprisoned, specific needs of women prisoners, the transfer of offenders; human rights instruments and their implementation for prisoners, guidelines to ensure the independence of judges and to improve selection and training of judges and prosecutors, and the Code of Conduct for Law Enforcement Officials.

62. The attention of the Committee is drawn, in particular, to resolution 8 of the Sixth Congress, which requests the Committee to examine the possibility of preparing a report on alternatives to imprisonment for submission to the Seventh Congress; resolution 10, which requests the Committee to prepare a report on measures for the social resettlement of the imprisoned for submission to the Seventh Congress; and resolution 14,

which requests the General Assembly to include a specific item concerning the implementation of human rights for prisoners in the agenda for the Seventh Congress.

63. A significant number of instruments related to this topic range are already in existence, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (adopted by the first Congress), the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (drafted by the Fifth Congress and adopted the same year by the General Assembly) and the Code of Conduct for Law Enforcement Officials, which originated with the Fifth Congress and was finalized and adopted by the General Assembly at its thirty-fourth session.

64. By the time of the Seventh Congress, it is likely that several other major instruments will have been finalized and adopted by various bodies, including the "Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment", and the "Principles of Medical Ethics Relevant to the Role of Health Personnel in the Protection of Persons against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment" - the draft of which has been considered by the thirty-sixth session of the General Assembly, as well as the "International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment" - the draft of which is currently pending before the Commission on Human Rights. Under these circumstances, the Committee may wish, once again, to place the topic of United Nations standards and norms on the agenda, to orientate this topic largely, though not necessarily exclusively, and to the way in which the criminal justice system deals with those coming into contact with it. In accordance with past practice, it might be convenient to structure the topic in terms of (1) a review of existing standards and norms, (2) difficulties encountered in applying these, and (3) the need for the formulation of additional standards and norms, with a view toward perfecting the network of standards and norms for the criminal justice system which, while recognizing the need for flexibility to allow for national social, economic and cultural differences, will assure fair and humane proceedings throughout the world.

65. The third sub-topic, pursuant to the recommendations of the Sixth Congress, might include such subjects as alternatives to imprisonment or the social resettlement of offenders, topics previously touched upon but not fully discussed; the effective involvement of the community in the rehabilitation of offenders; measures for shortening prison sentences consistent with the safety of the community; and related items.

66. The Committee is urged to consider the extent to which this topic, in dealing with those coming into contact with the criminal justice system, should be sub-sectorally focused on prisoners and detainees, or approached from a broader, sectoral perspective, which would also include, inter alia, standards and norms pertaining to the judiciary. These two possibilities, however, are not mutually exclusive, since the focus on prisoners and detainees should be system-wide.

CHAPTER II. PREPARATORY ACTIVITIES AND ORGANIZATIONAL MATTERS

67. In the past, preparations for the Congresses have proceeded in accordance with the following time schedule:

1. Five to four years prior to the Congress, the substantive agenda items were generally identified.
2. Four to three years prior to the Congress, the discussion guide for use at the regional, intergovernmental preparatory meetings was finalized.
3. Three to two years prior to the Congress:
 - (a) The Secretary-General commenced convening the regional preparatory meetings; and
 - (b) Commenced the appointment of experts/consultants to prepare background research papers on specific items;
4. Two to one years prior to the Congress:
 - (a) The regional preparatory meetings were completed (Africa, Asia and the Pacific, Europe and Latin America); the Arab States convened a separate meeting;
 - (b) Interregional meetings of experts were convened, one for each of the topics selected for discussion;
 - (c) Expert/consultant papers were prepared; and
 - (d) The Secretariat commenced preparing the working papers for the Congress;
5. During the year prior to the Congress:
 - (a) The working papers were completed and disseminated;
 - (b) Logistical preparations for the Congress were finalized.

68. If the same time schedule were to be used as a model, the Committee would have to make its recommendations in consideration of the following steps:

1. In 1980-1981, the report of the Sixth Congress has been prepared and disseminated. Substantive agenda items have been broadly identified, but must be finalized by the Committee at its seventh session.
2. In 1982, upon finalization of the substantive agenda items by the Committee, the discussion guide for use at the regional preparatory meetings will be prepared, and consultations for the convening of the regional and interregional meetings will begin.

3. In 1983, the Secretary-General proposes to commence convening the regional preparatory meetings and, at the same time, to identify and appoint expert consultants to prepare background research papers on specific items.

In view of their significance and major policy implications, the "new guiding principles for the future course of crime prevention and criminal justice in the context of development needs and goals of the International Strategy for the Third United Nations Development Decade and a New International Economic Order", to be elaborated by the Congress pursuant to paragraph 6 of General Assembly resolution 36/21, require particularly careful and imaginative preparation. It would facilitate the work of the Congress, and of the Committee, if they had the benefit of the expertise and independent views of a group of international prominent personalities eminent in this field, who would consider the matter in depth and propose a framework of a comprehensive and coherent set of principles.

4. In 1984, the Secretary-General proposes to convene the remaining regional intergovernmental preparatory meetings and, upon their conclusion, to convene interregional ad hoc meetings of experts on each of the specific topics identified by the Committee, in accordance with established practice.

On the basis of the conclusions of the regional/intergovernmental meetings, the research papers prepared by the expert consultants and the conclusions of the interregional ad hoc meetings of experts, the Secretary-General will commence preparing the working papers for the Seventh Congress,

5. In 1985, the Secretary-General will finalize and disseminate the working papers and other documentation for the Congress and complete all logistical preparations for the convening of the Congress.

69. The Committee may wish to give its recommendations to the Economic and Social Council on the proposed preparatory activities for the Seventh Congress set forth above. The Committee may also wish to consider recommending to the Council that Governments be invited to establish national preparatory committees for the Seventh Congress to act as focal points and be charged with the preparations of national position-papers for distribution at the Congress. Such national committees should have widespread participation to include the different fields and concerns involved.

70. With regard to the organizational arrangements of the Seventh Congress, they will, of course, depend on the Committee's recommendations on the agenda, the allocation of items and other considerations. Such arrangements will have to remain somewhat flexible so as to allow accommodation for future developments and exigencies.

71. The Committee is asked to consider one major innovation from previous Congresses, namely, the discussion of the main cluster of items in plenary

meetings, with the remaining four items being dealt with, as in the past, by two main committees.

CONCLUSIONS

72. The main tasks of a preparatory organ encompass in principle:

1. The elaboration of a detailed draft agenda for the conference;
2. The development of recommendations on the structure of, and on organizational arrangements for, the conference.
3. The establishment of a comprehensive timetable for all preparatory activities and relevant meetings at various levels leading to the conference.
4. A decision about the nature of national, regional and interregional input and that of the organizations of the United Nations system, its co-ordination and the preparation of a draft plan of action, where appropriate;
5. The specification of the documentation required from the Secretariat for the preparatory and the conference phases.
6. Guidance to the Secretariat in its activities.
7. A decision about the modalities for participation by non-governmental organizations and, where appropriate, by the scientific community or other organizations and institutions in the preparatory activities and in the conference.

73. As regards the preparation of the detailed draft agenda for the Congress, this note has called to the Committee's attention its own previous actions, the proposals of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as well as the relevant requests of the General Assembly, at its thirty-sixth session, and has also presented, for the Committee's consideration, a possible scheme for grouping the various clusters of topics, with proposed modalities for treating them.

74. With reference to the structure and organization of the Congress, a flexible outline has been indicated, which can be finalized after the views and recommendations of the Committee concerning the draft agenda for the Seventh Congress are known.

75. Similar considerations apply to the time-table for the preparatory activities, especially the preparatory meetings. These depend largely on the Committee's recommendations regarding the nature of the national, regional, interregional and inter-organizational inputs.

76. As regards the documentation, the draft agenda of the Congress and any further recommendations which the Committee may make will be largely determinative. In providing guidance to the Secretariat in its activities,

the Committee may wish to consider the ways and means whereby the Secretariat would be helped to properly discharge its tasks and assure the necessary feedback to the Committee.

77. It is clear from the above that proper planning and implementation of preparatory activities of, and organizational arrangements for, the Seventh Congress are largely dependent on the finalization of the draft agenda of the Congress.

78. The sequence of the various preparatory activities is largely dictated by the contents of the agenda and by decisions regarding the modalities for dealing with the various issues. It is, therefore, incumbent upon the Committee to identify the principal substantive items, as well as the issues to be covered under each item, to provide a structure for them, and to indicate the modalities for dealing with them at the Seventh Congress, with a clear indication of priorities.