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CRIME PREVENTION AND CRIMINAL JUSTICE

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

Declaration of Basic Principles of Justice (a) relating to victims
of crime, and (b) relating to victims of abuse of power

Draft resolution

The text of the draft resolution on the Declaration of Basic Principles of Justice (a) relating to victims of crime, and (b) relating to victims of abuse of power which 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, recommended for adoption by the General Assembly, reads as follows:

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 for the victims of 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 (a) relating to Victims of Crime, and (b) relating to Victims of Abuse of Power:

"The General Assembly,

"Recalling that the Sixth 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, 1/

"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 of offenders;

"3. Adopts the Declaration of Basic Principles of Justice (a) relating to Victims of Crime, and (b) relating to Victims of 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;

"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, Member States should endeavour to:

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

"(b) Promote community efforts and public participation in crime prevention;

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

"(d) Establish and strengthen the means for the detection, prosecution, and sentencing of those guilty of crimes;

1/ See Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (United Nations publication, Sales No. E.81.IV.4).

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

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

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

"(h) 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 to:

"(a) Promote training activities designed to foster adherence to United Nations standards and norms, and to curtail possible abuses;

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

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

"(d) 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 agencies and bodies within the United Nations system offer, so as 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. Also requests the Secretary-General to promote the objectives of the Declaration, particularly by ensuring its widest possible dissemination;

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

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Annex

DECLARATION OF BASIC PRINCIPLES OF JUSTICE (a) RELATING TO VICTIMS
OF CRIME AND (b) RELATING TO VICTIMS OF ABUSE OF POWER

SECTION A. RELATING TO 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 which are in violation of criminal laws operative within Member States, including those laws which proscribe 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 which 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;

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(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 dispute resolution mechanisms, 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, particularly 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.

Social 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.

SECTION B. RELATING TO 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 which do not yet constitute violation of national criminal laws but which constitute violations 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 which 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 those acts.