



**Fifth United Nations Congress on the Prevention of Crime  
and the Treatment of Offenders  
(Toronto, Canada, 1-12 September 1975)**

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**CHANGES IN FORMS AND DIMENSIONS OF CRIMINALITY -  
TRANSNATIONAL AND NATIONAL**

Working paper prepared by the Secretariat

**UNITED NATIONS**

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## INTRODUCTION

1. In many countries of the world the crime problem has become one of the principal concerns of Governments, specialists and the public. The hope that improved levels of living and better social services would automatically reduce crime has not been realized. In some of the developed countries crime has become one of the most acute social problems, and even some very elaborate and costly crime-prevention programmes have proved ineffective in reducing the crime rate. Moreover, for the past 10 to 20 years the world community has been faced with an increase in the sophistication and organization of crime, which in many respects parallels the sophistication and organization of technologically developed legitimate society.
2. Many countries suffer not only from a general expansion of adult criminality but more particularly from a rapid increase in juvenile delinquency and the progressive involvement of women in crime. Among traditional forms of criminality, that related to violence has undergone a particularly noteworthy increase.
3. As mankind is being confronted with new forms and dimensions of criminality, it is being realized that the traditional crime-prevention systems developed during the nineteenth and twentieth centuries are no longer adequate to cope with the problem. Indeed, some evidence suggests that these traditional methods can be counter-productive and thus criminogenic. The existing systems of penal legislation, administration of justice and correctional services simply are no longer adequate for the task.
4. The gravity of the crime problem and the urgent need for revitalized and reoriented actions to cope with it make it necessary to re-examine the basic premises of the criminal justice system and to seek the root causes of contemporary criminality. Emphasis must be placed on broadly conceived socio-economic-political measures to remove the root causes of crime as the world knows it today. But the citizenry is entitled to immediate relief from and protection against criminals during the interim period when these measures are being applied. Crime in the streets, crime in economic life, and crime endemic to the system of criminal justice itself are very real to the affected citizenry and require immediate remedial measures.
5. The increase in crime, both national and transnational, 1/ is generally regarded as the result of an interplay between failure in planning and rapid social change. In formulating the International Development Strategy for the Second United Nations Development Decade, the General Assembly in its resolutions 2626 (XXV) of 24 October 1970 and 3178 (XXVIII) of 17 December 1973 has laid stress on the social aspects of development and called for action to mitigate its negative side-effects.
6. The relation between human behaviour and societal change is the crucial factor in understanding not only crime but development itself. Crime occurs and seems to

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1/ The concept of transnational crime is explained in paragraph 118, below.

increase with the acceleration of change and development, which in recent years has been especially associated with such crucial processes as industrialization, urbanization, social mobility and the development of technology. 2/ It is, of course, realized that planning for crime prevention, within the total context of national socio-economic planning, suffers from the vagaries of phenomena that are hard to control - population growth, labour migration, economic cycles, unemployment, public opinion and natural disasters, for example - as well as from the diminishing effectiveness of traditional social controls, such as parental or community influences.

7. The transition from traditional to industrialized society, as experienced by the rapidly developing countries, poses a particular challenge in the area of crime prevention and criminal justice. 3/ Increased opportunities and the dwindling influence of established forms of social control contribute to a rise in criminality with which an unprepared system of criminal justice cannot yet cope, especially when such systems are simply copies of foreign legislation designed for different people under different circumstances. Developing countries are extremely susceptible to crimes affecting the national economy, such as smuggling, foreign exchange "racketeering", the illegal outflow of capital, illicit traffic in narcotics, bribery and corruption. Such countries are particularly vulnerable to potential economic and cultural exploitation by powerful trading partners which appear to operate outside and above the law.

8. Particularly noteworthy is the element of politicization of criminality, especially among the youth living in countries and under conditions where they see little chance for personal, social and economic improvement. While traditional forms of juvenile delinquency continue to increase, the significance of violations of the penal codes which can be regarded as a form of protest or an effort to seek recognition for social, national or ethnic ideals or objectives has reached proportions never before witnessed.

9. These phenomena are challenging agencies of social and criminal justice to an unprecedented degree. Especially when viewed in connexion with unemployment trends and other forms of social disorganization, these new forms of criminality may challenge the very existence of the social institutions charged to deal with deviants. Moreover, as the proportion of youths among the population increases, the problem of dealing with proportionally increased delinquency will pose new challenges to the system of education and of social services. The prospective

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2/ See "Social defence policies in relation to development planning" (A/CONF.43/1).

3/ See in this connexion Marshal B. Clinard and Daniel J. Abbot, Crime in Developing Countries: A Comparative Perspective (New York, John Wiley, 1973); Mustapha El Augi, "Le phénomène de la criminalité au Moyen-Orient" and Adrien Bassitche, "Changement social et criminalité au Moyen-Orient", L'Afrique du Nord et l'Asie de l'Ouest: développement et société (Montréal, Université de Montréal, 1975), pp. 210-247 and pp. 248-271, respectively. See also Suzanne Arcand and Yves Brillon, "Comparative criminology: Africa", Acta Criminologica (Montréal), vol. VI, January 1973, pp. 198-217.

increase of the youth population, combined with the possible decline in opportunities for upward social mobility <sup>4/</sup> make it necessary to take account of the seriousness of the problem of juvenile delinquency.

10. The total range of crime and criminal justice problems which the world faces during the last quarter of the twentieth century may be viewed from many perspectives, but for purposes of facilitating the discussions of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, it has been grouped into five agenda items, each one of which is specifically concerned with a significant segment of the total range of problems. But not even a Congress as vast in reach as this one can possibly hope to achieve universality of coverage. Consequently, in agenda item 7, "The emerging roles of the police and other law enforcement agencies, with special reference to changing expectations and minimum standards of performance", as in the other agenda items, a selective process has been used to exclude some topics - those which, like environmental offences or offences against labour safety, are to be dealt with on other occasions. The same process was used to include other topics, especially those which appear to require immediate attention on the part of the United Nations.

11. Each of the nine topics selected for discussion because of their transnational or comparative international significance has, first of all, been dealt with descriptively. Information obtained through research, consultant papers and the input of regional and topical meetings has been summarized with particular attention to the interest, mandates and prior experience of the United Nations. Next, efforts at coping with the particular type or range of criminality have been discussed; and, finally, known or suggested strategies have been indicated. These solutions may range from the official use of law enforcement or correctional agencies, of courts or other agents of informal social control to decriminalization. Many of these suggested strategies may be national or transnational in scope. It is important to recognize, however, that the discussion of the general aspects of law enforcement, of judicial and other forms of social control, of corrections and, indeed, of determining the socio-economic cost-benefit of all attempted solutions have been dealt with in other working papers. Agenda item 3 then is principally concerned with the known instances of social disorganization and social malfunctioning called crime, which appear to concern most nations of the world and which invoke the processes and machinery of criminal justice.

12. The concluding chapter of the present paper deals with projections for the future and suggests possible areas of crime control that will be problematic and will require the attention of the United Nations five or 10 years from now. Among these topics, as the present working paper indicates, are likely to be such issues as environmental protection and the whole range of criminality connected with technological development, whether in industry or medicine, in business or as a result of bio-chemical research. Moreover, whether seen from the point of view of the development of crime or from the perspective of the prevention of crime, a

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<sup>4/</sup> See Report on the World Social Situation, 1974 (United Nations publication, Sales No. E.75.IV.6), part two, chap. 15.

trend from national to transnational and finally to international action and reaction is clearly discernible. 5/ Within the flow of discussion at the Fifth Congress, it may be well for all participants to keep these considerations in mind. Furthermore, the Congress should also consider that the results of the discussion of all agenda items will contribute to the elaboration of the report to be submitted by the Committee on Crime Prevention and Control to the General Assembly at its thirty-first session in 1976 through the Economic and Social Council. That report will deal with methods and ways likely to be more effective in preventing crime and improving the treatment of offenders, including recommendations on the measures appropriate in such areas as law enforcement, judicial procedures and correctional practices. 6/

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5/ For a comprehensive study of this subject, see M. Cherif Bassiouni and V. P. Nanda, eds., A Treatise on International Criminal Law, vols. I and II (Springfield, Illinois, Charles C. Thomas, 1973). See also Leslie T. Wilkins, "Crime and crime control; the next ten years", preliminary paper for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders; and Manuel Lopez-Rey, Crime: An Analytical Appraisal (New York, Praeger, 1970), chap. 4, pp. 181-233.

6/ See para. 8 of General Assembly resolution 3021 (XXVII) of 18 December 1972 and the background report of the Secretary-General on the international plan of action (E/AC.57/19). The results of the discussion of the Fifth Congress might also be of interest in connexion with crime prevention and criminal justice in the second biennium (1978-1979) of the medium-term plan for the period 1976-1979 of the Economic and Social Council (E/5614).

I. CRIME AS BUSINESS AT THE NATIONAL AND TRANSNATIONAL LEVELS:  
ORGANIZED CRIME, WHITE-COLLAR CRIME AND CORRUPTION

13. It is the purpose of this chapter to consider a range of interrelated types of criminal and deviant behaviour which pose new and increasingly serious problems in many countries of the world. The nature and distribution of these crimes vary according to the economic and social development of the countries concerned, but the available evidence suggests that they may pose an especially serious problem for the developing countries. For most countries the economic and social consequences of economic criminality are much greater than the consequences of the traditional forms of violent crime and crime against property. Indeed, they pose special problems of control, not least because they often transcend national boundaries.

14. The types of crimes included in the range of "crime as business" are those which criminologists have traditionally labelled as "corruption", "organized" crime and "white-collar" crime. <sup>7/</sup> At least until recent years, public concern about these types of crime appears to have been relatively slight. One hypothesis which may account for this lack of concern is that those involved in crime as business have close and powerful relationships with (indeed, in some cases they are identical with) those persons who control, or at least influence, the social and legal definition of "the crime problem". They are thus able to influence, either directly or indirectly, public perception of their own illegal behaviour. It may also be, however, that the traditional forms of violent and property crime (assault, robbery, burglary and the like) have an emotional or symbolic significance which would outweigh the economic and social consequences of crime as business in the public mind, even under conditions of more complete knowledge.

15. Crime as business tends to possess all or most of the following features:

(a) It is carried out primarily for economic gain and involves some form of commerce, industry or trade. Thus, such acts as kidnapping for ransom and the skyjacking of aircraft for ransom may be excluded from the category of "crime as business"; art thefts may also be excluded, although the marketing of stolen works of art, currently a problem in Italy, India and other countries, is a borderline case;

(b) It involves some form of organization, in the sense of a set or system of more or less formal relationships between the parties committing the criminal acts, such as "syndicated" crime and price fixing among juridical entities. Individual illegal acts by the agents of business organizations, such as

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<sup>7/</sup> The concept "white-collar" crime was first used by Edwin H. Sutherland and comprises criminality which is ordinarily a violation of trust, perpetrated by a reputedly respectable member of the community, ordinarily enjoying a fairly high economic status, in a manner which is in some way related to his occupation. See Edwin H. Sutherland, "White collar criminality", American Sociological Review, vol. 5 (1940) pp. 1-12. The present working paper will ordinarily use the broader concept of "crime as business" as explained in the text. See also Richard F. Sparks, "Crime as business", preliminary paper for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Toronto, 1975.

defrauding on income tax or the solitary embezzlement of a bank teller or union treasurer, would be excluded, however;

(c) It involves either the use or the misuse of legitimate forms and techniques of business, trade or industry;

(d) Typically but not necessarily, the persons involved in committing these crimes have relatively high social status or political power, or both.

16. In so far as corruption is concerned, at least two broad categories, differing according to motive or objective, should be distinguished. On the one hand, there is political corruption related primarily to the acquisition or retention of political power, such as vote-buying, unlawful campaign contributions or other illegal acts directed towards the election or re-election of a particular candidate or the illegal patronage of civil service appointments. On the other hand, there are acts of corruption directly related to financial gain, not only for the politician or administrator who is corrupted but also for the person doing the corrupting. Such acts include bribery of the police or other government officials to induce them to a blind eye on gambling or prostitution, and giving "kick-backs" to politicians in return for public works contracts.

17. "Organized crime" is understood to be the large-scale and complex criminal activity carried on by groups of persons, however loosely or tightly organized, for the enrichment of those participating and at the expense of the community and its members; it is frequently accomplished through ruthless disregard of any law, including offences against the person, and frequently in connexion with political corruption. <sup>8/</sup> North America has suffered particularly from this form of criminality. There it achieved its contemporary complexity during the prohibition era when the use and sale of alcohol were prohibited by national law and organized crime was thus given an opportunity to supply illegally a commodity which was no longer available legally. Indeed, it is characteristic of "organized" or "syndicated" crime that it profits from legal prohibitions or inhibitions by supplying illegally what is not available legally. While North America has been particularly affected by this form of criminality, it flourishes in different degrees and in various versions in nearly all parts of the world.

18. It is becoming increasingly difficult to distinguish between offenders who are (or regard themselves as) "professional" or full-time criminals, and persons whose self-image is that of a legitimate businessman or financier: the behaviour of each group, given comparable market or financial circumstances, appears in many cases to be strikingly similar. Several students of "organized" or "syndicated" crime have alleged that the focus of such criminal activities has

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<sup>8/</sup> For recent inquiries on this total subject, see D. R. Cressey, Theft of the Nation (New York, Harper and Row, 1969); United States of America, The President's Commission on Law Enforcement and Administration of Justice, Task Force Report on Organized Crime (Washington, D.C., 1967), especially the papers by Donald R. Cressey and Thomas C. Schelling, and the references there cited; and Dwight C. Smith, The Mafia Mystique (New York, Basic Books, 1975). See also Italy Commissione Parlamentare d'inchiesta sul fenomeno della Mafia in Sicilia, Camera dei Deputati V Legislatura, Doc. XXIII n. 2 - Septies (31 Marzo 1972); and Frederic D. Homer, Guns and Garlic: Myths and Realities of Organized Crime (Lafayette, Indiana, Purdue University Press, 1974).



turned away, in recent years, from the operation of "rackets" such as gambling, prostitution and usury offences and towards the "infiltration" of banks, manufacturing and retailing companies and other forms of legitimate business. <sup>9/</sup> It remains to be ascertained how frequent this "infiltration" is, and whether it tends to lead to any more crime than is committed by otherwise legitimate (or at least reputable) businessmen in similar enterprises. Undoubtedly it is true that there has been an increasing use, in recent years, of legitimate business forms for dishonest purposes. A simple example, reported to have become more prevalent in the United Kingdom and other European countries in recent years, is "long-firm" fraud (variously known, in the United States, as the "bust-out" or "scam"). In this type of fraud, a company or group of companies is set up ostensibly for the purpose of trading (either retail or wholesale); credit is established, often through cross-references between one fraudulent company and another; large amounts of goods are bought on credit; these goods are disposed of for a fraction of their value, either through legitimate channels or through large-scale receivers of stolen property; and the fraudulent companies are then dissolved either in bankruptcy or by the simpler expedient of the principals' absconding. The losses to the firms supplying the goods on credit (usually tax-deductible as bad debts) are seldom reported to the police as losses by fraud; indeed, the whole operation may look like nothing more than a law-abiding wholesaler or retailer having imprudently over-extended his operations and gone bankrupt. What is involved in such a crime is the use of legitimate and even necessary financial and commercial practices, such as incorporation and commercial credit, for a criminal fraud operation; it is clear that this misuse of legitimate business practices may be, and often is, carried out by persons who are not criminals in the "racketeering" sense of a generation ago.

19. Any attempt to understand what is here called "crime as business" must begin with the truism that the pattern of economic crime displayed by any society necessarily depends on that society's pattern of legitimate economic development. Changes in the form and frequency of economic crime are in large measure a consequence of changes in the patterns of legitimate economic life. This is so primarily because of the crucial role that opportunity plays in shaping criminal behaviour. For example, theft of motor vehicles could not take place before the invention of the automobile. The changing patterns of legitimate economic organization are of special importance in relation to crime as business because of the scale and complexity of new forms of business and industry which are especially characteristic of the twentieth century and particularly of the past 50 years. The discovery of scarce raw materials, for instance, in a previously undeveloped country can thus lead overnight to massive new opportunities for fraud, bribery and theft of mineral rights. Investment in public works can open up vast opportunities for fraud by contractors, suppliers and shippers, especially those

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<sup>9/</sup> See, in particular, Donald R. Cressey, chap. 6; The President's Commission on Law Enforcement and Administration of Justice, *op. cit.*, pp. 4-5. This trend was pointed out as early as 1947 by P. W. Tappan in his "Who is the criminal?" *American Sociological Review*, vol. 12 (1947), pp. 96-103.

representing powerful trading partners in monopolistic positions, whether they are national or transnational companies, state or individual enterprises.

20. To take another example, corporate and governmental investment has grown since the Second World War. New and increasingly complex forms of funding have been developed, which have in turn permitted new forms of fraud. For instance, there has been a widespread development in the post-war years of mutual funds, companies that attract funds and invest money usually lent to them in an unsecured manner. While the majority of the companies engaging in this relatively new form of complicated, multitiered investment structure are legitimate, there has been considerable opportunity for some forms of fraud which could not have been carried out in times past when financial structures were less complicated.

21. In order to understand the nature of crime as business, it is also necessary to consider the differences among countries in the regulation of business activities. Exploitation of nationally differing laws occurs in two ways, depending on the nature of the legal differences. Two situations are distinguishable:

(a) Differences in the scope of laws relating to the regulation of business activity. It is partly because of differences in the scope of business regulation that it is necessary to consider not merely crime in the strict legal sense of that term, but deviance in the sense of a contravention of normative standards concerning the conduct of business. Many kinds of corporate and individual business behaviour which are prohibited in industrially developed countries have not yet been regulated in developing countries. Thus, in the past decade a number of countries have made it a criminal offence to engage in certain practices or ecological problems and have passed laws regulating air and water pollution, for example, and laws providing consumer protection - for instance, food and drug acts. Certain countries have also created statutes regulating financial transactions for example, laws involving the publication of companies, annual reports, the formation and conduct of banking or brokerage firms, and the disclosure of relevant information to potential investors. Such laws vary considerably from country to country. Somewhat paradoxically, it is likely that the general standards of proper or acceptable conduct are fairly uniform within the world business community, regardless of the formal requirements of the criminal law. But the variation in the scope of such laws means that the definition of "crime as business" varies in different jurisdictions and is therefore virtually of criminogenic significance. It invites circumventions and violations of laws;

(b) Differences in the techniques used to regulate improper forms of business activity. Even if it is agreed by any two countries that the same types of business activities ought to be regulated or discouraged, the methods of accomplishing this may still vary considerably. In their efforts to control certain types of economic or financial activities, some countries have opted for using the criminal law, while others have opted for civil remedies, including punitive as well as compensatory damages, control through regulatory agencies, licensing and other similar non-criminal legal measures. In so far as these variations in legal technique are taken into account by businessmen, the claim that certain unethical or otherwise improper practices are "not criminal, but

simply minor civil wrongs" can function as a powerful "technique of neutralization" <sup>10/</sup> allowing a businessman-criminal in one jurisdiction to justify to himself, his associates and the general public, behaviour that would be clearly condemned as criminal in an adjacent jurisdiction. Naturally, the scope of the legal regulation of commerce and industry and the technique used to try to control improper commercial activities are matter which ultimately lie within the national sovereignty of the countries concerned. However, with trading partnerships increasing, it seems clear that this is one area in which international co-operation, in the form of regular and systematic exchanges of information, can play an important part in assisting countries to adopt optimum strategies for the regulation of crime as business.

22. Finally, it must be recalled that industrial development proceeds at a different pace in different countries and that many countries are in the process of industrialization. These countries may benefit from the earlier experiences of more developed countries concerning the regulation and prevention of crime as business. The concept of transnational crime will be used in the present paper to refer to those instances of crime as business, as defined above, which span the borders of two or more countries, either because the economic behaviour concerned involves crime committed concurrently against the laws of two or more countries (income tax fraud or financial manipulation that is illegal in two or more countries, for instance) or because the crimes, though planned and directed in one country, may have their economic or social impact in another. In general, there is no international law to regulate these types of behaviour, and the international accords embodied in national laws are not of much help in preventing this type of crime.

23. To a large extent, transnational crime as business is related to international trade, much in the way that crime as business within a particular country is relate related to that country's pattern of trade and industry. In many countries, one of the most important forms of transnational crime is smuggling. It is probable that in a few economically developed countries, smuggling, except in relation to narcotics or other highly profitable forms of contraband, is thought of primarily in connexion with tourism in the form of attempts by returning travellers to illegally avoid paying import duties on the goods that they bring home. But in some of the developing countries smuggling is a major economic problem. In Afghanistan, for example, it has been estimated that smuggling accounts for between 20 and 25 per cent of total foreign "trade". <sup>11/</sup> This is also thought to be the case in a number of other Asian and in some African countries. The usual objective of smuggling, of course, is the illegal avoidance of tariffs or import duties; but the presence of smuggling on a large scale may have other harmful economic effects - for example, by affecting the market for domestically produced import substitutes. This in turn may affect the allocation of investment and thus the basic structure of the economy.

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<sup>10/</sup> Gresham Sykes and David Matza, "Techniques of neutralization: a theory of delinquency", American Sociological Review, vol. 22 (1957), pp. 664-670.

<sup>11/</sup> N. Ghagwati and Bent Hansen, "A theoretical analysis of smuggling" in J. N. Bhagwati, ed., Illegal Transactions in International Trade (Amsterdam, North Holland Publishing Company, 1974), p. 9.

24. A second and related form of transnational economic crime is the falsification of invoices for imports or exports. Typically, this too is a more serious problem for the developing countries whose currencies are relatively "soft" and which must therefore rely for their solvency, in transnational trade terms, on foreign exchange controls. There are circumstances in which it is to the advantage of the traders to understate the invoice value of imports - for example, if there is an ad valorem tariff duty on the goods. <sup>12/</sup> Conversely, ad valorem export subsidies create an incentive to overstate the invoice value of exports. Conceivably, both exporter and importer could reap illegal profits from this particular form of invoice falsifications. <sup>13/</sup> These forms of "quasi-smuggling", like smuggling itself, may have considerable adverse effect on the economies of some developing nations, not only by exacerbating currency and balance-of-payments problems but also by distorting investment policy decisions.

25. To summarize the issues of smuggling and quasi-smuggling, three observations must be made. First, smuggling on a commercial scale requires a high degree of organization and is marked by corruption - for example, the bribery of customs officials to induce them to overlook shiploads of goods being illegally imported; conspiracies between importer and exporter are also common. Secondly, the parties to such illegal transactions are typically persons regarded as legitimate businessmen, or persons who have close relationships with legitimate businessmen. Thirdly, the pattern of these forms of crime as business depends not only on the provisions of national criminal laws but on the tariff structure, export subsidies and the like, which, though intended to regulate international trade also control the profit structure of illegal trade.

26. A somewhat different set of problems is posed by the regulation of transnational corporations. The size and scale of operations of the largest of these companies is now immense. <sup>14/</sup> But the power of these global organizations does not lie merely in their size nor in the fact that many operate under market

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<sup>12/</sup> Richard J. Barnet and Ronald E. Muller, Global Reach: The Power of the Multinational Corporations (New York, Simon and Schuster, 1974), p. 15.

<sup>13/</sup> N. Bhagwati, "Fiscal policies, the faking of foreign trade declarations and the balance of payments", in J. N. Bhagwati, ed., Illegal Transactions in International Trade.

<sup>14/</sup> Richard J. Barnet and Ronald E. Muller, op. cit., p. 15. See also The Impact of Multinational Corporations on Development and on International Relations (United Nations publication, Sales No. E.74.II.A.5); and Commission on Transnational Corporations: Report on the First Session (17-28 March 1975) (Official Records of the Economic and Social Council, Fifty-ninth Session, Supplement No. 12 (E/5655, E/C.10/6)).

conditions of monopoly or oligopoly. It arises also from the very fact that their operations transcend national boundaries and that they regard the social conditions and public policies of a particular country as subordinate to the maximization of global profit. The attitude towards national regulation which follows from this ideology is obvious.

27. Other activities of the transnational trading partners may also have harmful effects on the economies of some developing countries, even though such activities may not be contrary to the criminal law in those countries. An obvious example is the practice of "transfer pricing", which refers to the pricing of goods in transactions between a transnational company and one of its subsidiaries. The subsidiary may undervalue its exports in order to minimize taxes, assuming that these are higher in the importing country. In one study it was found that certain global companies operating in Latin America consistently underpriced their exports by an average of 40 per cent in comparison with the prices charged by local firms. <sup>15/</sup> Alternatively, in other circumstances it may be profitable for the transnational company to overprice the imports of its subsidiaries in the less developed countries. These activities entail loss of tax revenues and a drain on foreign exchange resources. In recent years there have been some attempts - for example, in Mexico and other Latin American countries - to impose stricter regulations on the operations of transnational trading partners. But even after the imposition of stricter regulation, the countries concerned find it very troublesome and frustrating to obtain accurate accounting for such enterprises. In some cases this led to further frustration and ultimately to nationalization. However, many developing countries are clearly confronted with a dilemma here: they would prefer to retain the benefits which such companies bring but without making it impossible for them to engage in improper business practices.

28. In the present era, with its emphasis on decriminalization and depenalization, there is a certain temptation to deal with economic criminality through civil and administrative measures or to let the business community police itself by setting its own standards of ethical business practices. However, in the search for solutions to the range of problems encompassed by economic criminality, it is suggested that the criminal law itself has a crucial role to play in dealing with particularly flagrant types of offences. It might be unwise to extend the scope of criminal liability of corporations through the customary sanction of fines, which are frequently passed on to consumers or to the State itself. The only effective sanction against corporations might be the revocation of their charter to do business - in effect, "capital punishment", which would terminate the life of the corporate enterprise. This would not necessarily mean cessation of the corporation's activities, but it might amount to transfer of management to State control or to a new board of officers appointed possibly in a trusteeship capacity. Such schemes must be carefully developed, and interdependency factors as well as comparative evidence should be utilized. Thus the Swedish practice of giving corporations in default of the law a six-month warning before shutting them down has proved effective; but this has entailed the risk of causing unemployment and

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<sup>15/</sup> R. J. Barnet and R. E. Muller, *op. cit.* pp. 158-159, 164-165, 206.

deprivation in the community due to the loss of an essential economic base. The revocation of the charter to do business might not be useful in all situations - for instance, it cannot be applied in the case of public utilities or quasi-public corporations. Therefore, criminal liability of persons responsible for serious economic offences must be retained, although the wisdom of incarceration upon conviction must be questioned. Usually imprisonment of such persons merely deprives the national economy of talented manpower which can be put to good use in more constructive ways. Thus, for economic offenders sentences entailing services to the community are deemed preferable to sentences of imprisonment or even fines, which normally are absorbed by the business enterprises and passed on to the consumer.

29. The problem of economic criminality is far too complicated to allow only a juridical approach to its solution. <sup>16/</sup> Economic offences frequently do not affect their victims directly in the sense that the individual suffers a measurable and appreciable loss, but characteristically, consumers as a whole stand to suffer indirectly. Thus, it is important that public campaigns involve consumers and consumer organizations in national efforts to guard against the economic criminality of the business world. Governments can contribute considerably towards a lessening of economic crime if they are willing to support consumer protection agencies and public and private organizations concerned with monitoring business activities. Greater participation of shareholders in the affairs of major corporations might be beneficial in this regard. A Swedish experiment, for instance, placed representatives of Government and labour on the board of major corporations, thus ensuring public knowledge of business practices. An interdisciplinary approach to the solution of economic criminality, in which the legal system plays only a partial role, also requires the marshalling of citizens against illegal business practices. The wrath of the citizenry has, in some countries, turned against white-collar criminals. For example, on the Indian subcontinent the citizenry has at times been more agitated about white-collar criminals than about common thieves or even murderers. The strongest sanction against economic criminality is deemed to be an informed and alert citizenry aided by governmental participation on the national level, such as that provided by an ombudsman and commissions of inquiry, as well as the efforts of consumer groups and labour unions.

30. Above all, Governments must be ever intent upon removing the root causes of economic criminality, which include:

(a) Inefficient economic planning, resulting in shortages which invariably lead to black marketeering activities;

(b) The level of inflation, which is but another result of faulty economic planning practices or the absence of planning and which can be directly related to an increase in economic criminality, particularly on a transnational scale;

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<sup>16/</sup> For an account of the socio-economic aspects of economic crime from the perspective of a socialist country, see Leszek Lernell, Przestepność Gospodarcza (Warsaw, Wydawnictwo Prawnicze, 1965).

(c) Excessively high rates of taxation and differences in the levels of taxation in most countries, which invariably result in efforts to circumvent tax laws;

(d) The prevalence of "get-rich-quick" philosophies, which are fostered especially by the mass media and which tend to corrupt the citizenry, younger groups in particular.

31. At the international level, it can be taken as axiomatic that until the regulation of business and financial activities is reasonably uniform throughout the world, crime will flow to those countries having the least effective regulation. It has been suggested that as far as transnational financial crime is concerned, national legislation will never be sufficient that some form of multinational securities and exchange commission may well be required. <sup>17/</sup> But the prospects for this kind of regulation do not seem good, at least in the near future. A more realistic measure might be to effect more extensive international distribution of information about financial transactions engaged in by trading partners of monopolistic capacity, whether they are individually or corporately owned and whether they are public or private enterprises. <sup>18/</sup> To accomplish this, legal provisions for the disclosure of information about the operations of such enterprises may be needed. Even this, however, is only likely to come about to the extent that particular countries - especially the developed ones - regard such a measure as being in their own economic interests.

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<sup>17/</sup> Robert A. Hutchinson, Vesco (New York, Praeger, 1974), p. 357. This suggestion was made by the former Chairman of the United States Securities and Exchange Commission, William Casey, at an international meeting on stock exchanges held at Milan in 1972.

<sup>18/</sup> See Economic and Social Council resolution 1913 (LVII) of 5 December 1974.

## II. OFFENCES INVOLVING WORKS OF ART AND OTHER CULTURAL PROPERTY

32. The rise of crime involving the removal of works of art and other movable cultural property has affected many countries in recent years. Among the perils threatening cultural property are vandalism and wilful damage for predatory, political or religious reasons. Systematic theft organized, in certain regions, with the use of the most modern equipment, simple plundering by occasional thieves, and the fondness of the average tourist for procuring souvenirs are equal threats to the cultural property of nations. In some parts of the world, the illicit traffic in art objects threatens to result in the depletion of the entire national cultural heritage. In many cases involving the recovery of cultural property, it appears that professionals in the art trade - second-hand art dealers, retailers and antique dealers - have been somehow involved. Among the factors that are causing the opportunities for theft and art-blackmail to multiply is the considerable and constant increase in the price of collectors' items, aided by unprecedented increases in tourism and the ease of international transport by air.

33. At the national level, many new schemes have been instituted for the protection of national cultural treasures against theft, vandalism and wilful damage. These include improved technical systems of protection, measures for recovery of stolen objects, the establishment of national inventories of cultural property, the dissemination of information about the dangers of cultural losses, and the establishment of specialized police or customs services for the repression of traffic in cultural property. In an effort to alert the international community to missing and presumably stolen art objects, one nation has depicted these objects on its postage stamps in the expectation that this action would lead to the discovery of some of the missing objects. Other countries have resorted to the licensing of antique dealers and the requirement that all art objects be certified by an expert before they can be exported. Still other countries have established specially trained police units with which experts on domestic and foreign art are required to collaborate in their efforts to detect and intercept art thieves operating on the national and transnational levels.

34. It seems to have been a nearly universal experience that traditional laws prohibiting smuggling have proved to be as ineffective as customary methods of guarding national treasures. In many instances clandestine operations have been carried out without detection; in other instances corrupt officials have permitted protected objects to be removed. The thief is usually paid very little for the depredation, while the dealers in these objects make huge profits in distant markets.

35. At the international level, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its sixteenth session on 14 November 1970, remains the best instrument for reducing the risks of illicit traffic and should



be widely accepted by the various Governments of the world. <sup>19/</sup> However, the Convention has been ratified by only 17 States, almost all of them developing countries suffering from illicit export. The small number of ratifications is indicative of the failure of nations to recognize the true dimensions of offences that potentially entail the destruction of a country's cultural heritage. In many parts of the world, public officials and citizens alike are still largely unaware of the dimensions of the destruction and dissipation of objects which constitute their cultural heritage. New efforts should therefore be made to obtain more ratifications, acceptances or adhesions to the Convention. Moreover, knowledge of national legislation concerning the protection of the cultural heritage should be disseminated by innovative methods with a view to improving domestic legislation, the status of cultural property and regulations governing the market in works of art.

36. If ratified and fully implemented, the Convention might contribute significantly towards better protection of national treasures. But other remedies will have to be found in order to perfect a system of protection. Since the United Nations Educational, Scientific and Cultural Organization has spent considerable sums on the preservation and restoration of national treasures, it is suggested that the effort to protect national treasures against theft and vandalism should be broadened within the United Nations system. Moreover, with United Nations assistance, public education regarding the true significance of national heritage might in itself have some protective value. Ultimately, the strongest sanctions against cultural offences are an informed and alert citizenry and governmental action. Some national and international measures that should be fostered to protect national cultural heritages, without impeding the legitimate objective of disseminating cultural objects around the world for educational purposes and other aesthetic and cultural reasons, are:

(a) Exchange of information at the international level for the protection of cultural objects, with due regard to conditions that are peculiar to each country;

(b) Centralization of information received from such specialized bodies and agencies as the United Nations Educational, Scientific and Cultural Organization, the International Council of Museums and the International Council of Monuments and Sites;

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<sup>19/</sup> This subject has been dealt with in a report of the United Nations Educational, Scientific and Cultural Organization (SHC/MD/22, 8 January 1974). For articles expressing the police view of the problem, see Michael Clamen, "Museums and the theft of works of art", International Criminal Police Review (St. Cloud), February 1975, pp. 51-58; and André Bossard, "Theft of cultural property", International Criminal Police Review, March 1974, pp. 58-66. See also E. Danek, "Measures taken by the Austrian police to combat the renewed outbreak of theft of cultural property", International Criminal Police Review, February 1971, pp. 44-46.

- (c) Establishment of an international registry of particularly significant art objects, paralleling similar systems in existence at the national level;
- (d) Dissemination of knowledge of national legislation and possible changes in internal legislation with a view to facilitating claims to property which has been the object of illicit traffic;
- (e) Strengthening of procedures and sanctions to deal effectively with those who engage in theft or destruction of cultural property;
- (f) Imposition of responsibility on auctioneers and organizers of public sales for the legality of the disposition of cultural objects, through licensing requirements;
- (g) Adoption of codes of ethics by professional dealers in art objects;
- (h) Inculcation of respect for cultural property among tourists;
- (i) Promotion of the study, in each country concerned, of the best means of protecting the cultural heritage without impeding the licit and normal utilization of cultural property for the benefit of the public.

37. Many art objects that form part of a country's cultural heritage should be regarded as the common heritage of mankind and preserved for public benefit rather than private investment. Specific efforts should be made to protect them in times of war and civil strife and nations in possession of these objects should make constant efforts to use the best means available to guard them at all times against theft and destruction.

### III. CRIMINALITY ASSOCIATED WITH ALCOHOL AND DRUG ABUSE

38. The relation between alcohol and drug abuse, on the one hand, and criminality, on the other hand, long the subject of international debate, deserves to be considered by any United Nations congress dealing with changes in forms and dimensions of criminality. Nevertheless, the scope of the problem is so vast, the research literature so extensive and the social situation to which it pertains subject to such constant dynamic changes that an exhaustive treatment of this topic within the total range of new forms and dimensions of criminality could not possibly be achieved. Fortunately, the International Association of Penal Law - one of the non-governmental organizations in consultative status with the Economic and Social Council - dealt with the topic at its own Congress and made its extensive research findings, documentation and report available to the United

Nations in anticipation of the treatment of this topic at the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. 20/

39. While a variety of acceptable classification systems are in use, it is suggested that the substances whose abuse is closely linked to criminality should be classified as follows:

- (a) Intoxicating beverages;
- (b) Agriculturally produced hard drugs and their derivatives, including the opiates and cocaine;
- (c) Pharmaceutically produced hard drugs and their derivatives, including the amphetamines and barbiturates;
- (d) Agriculturally produced soft drugs, especially cannabis sativa.

It is recognized that each classification system, including this one, has its imperfections and should be used only for the purposes for which it is designed, which in this case, is to facilitate discussion of the subject at the Fifth Congress.

40. Data, based on estimates, about the known extent of the world-wide drug and alcohol abuse problem would seem to be in order before giving consideration to the criminological implications:

- (a) The number of alcoholics and alcohol-dependent persons in the world are frequently subject to arbitrary classification but might include a considerable part of the population in many countries;
- (b) The world production of opium is about 3,000 tons yearly, of which almost half is illegally produced; 21/
- (c) There are about 2 million people in the world who are dependent on heroin and who consume between 20 and 30 tons of illegally produced heroin every year;

20/ See "L'abuse de drogues et sa prévention", Revue internationale de droit pénal, vol. 44, Nos. 3 and 4 (1974), which includes reports from Bulgaria, France, the Federal Republic of Germany, Hungary, Israel, Italy, Lebanon, the Netherlands, Poland, Romania, Sweden, the Sudan, Turkey, the United States of America, the Union of Soviet Socialist Republics and Yugoslavia, and a general report (hereinafter referred to as the AIDP Report); see also International Association of Penal Law, Resolutions of the Eleventh International Congress on Penal Law (Budapest, 1974) (hereinafter referred to as the AIDP Resolutions). The relation between drug abuse and criminality was also discussed at an international conference held at Teheran, 15-22 May 1974, and organized by the University of Teheran in co-operation with the International Society of Criminology in Paris and the International Center for Comparative Criminology in Montreal. See also "The drug abuse problem: international policy", an article prepared by the United Nations Secretariat for publication in International Review of Criminal Policy, No. 34.

21/ United States of America, Ninety-third Congress, first session, House of Representatives, Combined Committee on International Narcotics Control, Special Study Mission to Latin America and the Federal Republic of Germany, World Opium Survey, 1972 (Washington, D.C., 1973).

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(d) There are about .5 to 1 million persons in the world who are dependent on opium;

(e) The number of persons in the world who consistently use cocaine is about .5 million, but the number of occasional users is undetermined;

(f) The world population of users of cannabis sativa and its derivatives is between 40 and 50 million, and national reports indicate rising use of this drug;

(g) There are no reliable world-wide estimates of the number of persons dependent on synthetic and chemical drugs, to a certain extent owing to the fact that methods of differentiation between illicit and legal medical use are still lacking. 22/

41. Most persons using or abusing dependence-producing substances usually do not in themselves constitute a social problem except to the extent that the acquisition of the products in question tends to perpetuate normally illegal production and distribution patterns. However, a substantial number of persons using and abusing drugs, especially narcotic drugs, contribute to a vast, complex and costly social problem in many countries. Among the hallmarks of this problem are personal deterioration and more accidents in industry, traffic and the home, which usually result in vastly inflated costs for medical and social services. Among the social costs, there are also the constantly increasing rates of crime committed to finance expensive drug habits. This increase in crime has led to an increase in the cost of maintaining a law enforcement apparatus to deal with the problem. The production and distribution of narcotic drugs adds further to the cost of law enforcement in the sense that it contributes to the cancerous growth of organized crime. To the extent that organized crime grows and prospers, the quality of life as a whole suffers. Corruption among public officials develops as organized crime expands and the administration of justice will eventually become less effective as a social force.

42. The causes of drug abuse vary widely from one part of the world to another, yet the problems it creates are comparable when viewed from the perspective of socio-economic cost. According to available research data, drug and alcohol abuse are frequently preceded by other forms of anti-social behaviour, or symptoms thereof, so that the legalization of certain drugs will not necessarily lead to cessation of criminal activities by those involved in the abuses. Consequently, total decriminalization of all drug abuse cannot be recommended as a panacea for drug-related criminality. The reasons for the contemporary upsurge in drug and alcohol abuse, particularly among the young, are many. They include such factors as disaffection and alienation, a feeling of impotence vis-à-vis the political process, lack of opportunity to make constructive use of leisure time, cultural conflict and confusion in many areas of the world regarding societal goals in the light of an inability to achieve them on a personal level, peer group pressure and acculturation, and the availability of drugs and alcohol. Unquestionably, it

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22/ For particulars relating to points (a)-(g) above, see AIDP Report, p. 24.

should be the aim of each nation and of the community of nations to remove these causes, but pending attainment of these goals, the problem must be dealt with in a more immediate and practical manner.

43. The patterns of drug abuse vary widely in different regions of the world. The following seem to be prevalent:

(a) In many non-socialist countries, pharmaceutically produced substances are easily available and are being abused. However, the extent of this abuse is very hard to measure; it does not necessarily constitute a social problem. In this category are the amphetamines, barbiturates, and to some extent, the hallucinogens;

(b) In some countries, often in remote areas, the patterns of abuse extend to local products, including hashish and opiates. Again, very frequently these patterns of abuse do not necessarily constitute significant social problems;

(c) In all countries that report a significant problem, cannabis sativa appears to be the most widely abused substance, especially among youth;

(d) In most European and American countries, both socialist and non-socialist, alcohol abuse appears to be widespread, at considerable social cost in terms of accident rates, loss of employment efficiency, social malfunctioning and social service expense. 23/

44. Drug abuse seems to be most common among segments of the youth population ranging from 15 to 35 years of age, where the use of cannabis sativa and hashish is particularly favoured. Apart from peasant groups, whose patterns are not regarded as problematic, drug abuse appears to be concentrated in metropolitan areas. There is a certain correlation between social status and profession, on the one hand, and the type of drug being abused, on the other hand. Thus, in the United States of America, the Federal Republic of Germany, Turkey and perhaps in most Western European countries, the use of amphetamines is more widespread among drivers, students and night watchmen. The use of hashish is reported to be prevalent among intellectuals, artists and other élite citizens, on the one hand, and among drifters, drop-outs and members of lower socio-economic groups, on the other. Alcohol abuse knows no professional or status limitations. Opiate abuse, however, is reported to exist primarily among lower socio-economic groups and slightly older youth ranging to about 35 years of age. Lastly, it is important to note an international tendency towards polydrug use - that is, a mixture of various drugs, frequently in combination with alcohol. 24/

45. Every nation has an elaborate legislative system of prohibitions and regulations enacted to deal with the drug and alcohol problems and the deviancy

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23/ AIDP Report, p. 28. See also Stanislaw Frankowski, Nowe Ustawodawstwo Karne a Zwalczenie Alkoholizmu (Warsaw, 1972).

24/ AIDP Report, p. 29.

and criminality associated with them. These national approaches vary widely and too often are not based on research, study and realistic goals. Some legislation has proved counterproductive by labelling non-dangerous drug and alcohol abuses as deviant and criminal and thereby indirectly driving the abusers into criminal subcultures and removing them from the socially useful portion of the population. This, in turn, results in significant social costs, both direct and indirect to the societies concerned.

46. It is doubtful that the wide variety of legislative approaches to the drug and alcohol abuse problem can be explained by cultural differences, and it is deemed necessary that a world-wide effort be undertaken to exchange information and data which would facilitate national reviews of the relevant legislation and of the remedies and sanctions which they provide. Distinctions must be made between legal intervention against illicit producers, manufacturers, and traffickers on the one hand, and illicit possessors-consumers on the other, allowing for flexible application of such legislation. Non-penal forms of social control and legislation sometimes prove to be more effective as control mechanisms. This is indicated by the experience of the socialist countries in controlling the drug problem through state supervision and ownership and by the experience of the Arab States in controlling the alcohol problem through religious norms. 25/

47. In this area of legislation, as elsewhere, planning based on cost-benefit studies ought to be utilized in order to deal effectively and humanely with the range of problems connected with alcohol and drug abuse. It would be wise for each nation to create an office charged with the task of constantly monitoring the effectiveness of legislation, especially that pertaining to alcohol and drug abuse, and to recommend legislative and policy changes whenever indicated. Some countries rely on decriminalization of certain types of drug abuse, a measure believed to entail substantial socio-economic benefits when contrasted with correlative detriments. These benefits are in the form of reducing the costs of maintaining field services, as well as institutional and non-institutional control and treatment agencies, and also of keeping those affected within the social structure and the process of economic production. A particularly strong trend towards decriminalizing the use of cannabis sativa and dealing with alcoholics through socio-medical rather than penal methods is noticeable. Countries that have experimented with this approach seem to have found the results encouraging.

48. In many nations, including Bulgaria, France and the United States of America, the efficient enforcement of laws dealing with alcohol and drug abuse is closely linked to the training of law enforcement officers. But efficient enforcement alone will not solve the world's drug abuse problems. Nor are there any universally accepted criteria of success. Such criteria have yet to be defined. they must focus on preventing the drug-induced or alcohol-induced dysfunctioning of human beings to the greatest extent possible,

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25/ See AIDP Report, p. 23.

and they must do so at a minimum cost to national resources in the law enforcement sector. The abuse of particularly dangerous substances may be eliminated more effectively by regulating their production, manufacture and distribution than by intervening in individual cases. The control exercised by many industrialized nations over pharmaceutically produced dangerous drugs has been as effective as the comparable control exercised by agricultural nations over hard-drug crops.

49. While many countries, especially in northern and Western Europe, have become dissatisfied with the repressive approach to narcotics control, socialist countries have become similarly disillusioned with the repressive approach to alcohol control. Consequently, these countries have tended to emphasize social service intervention and medical treatment. Not every drug addict or alcoholic requires treatment or can benefit from it. Rehabilitation efforts should be made only when necessary to end the dysfunctioning of the person involved and to protect society from the dangers which may emanate from dysfunctioning drug and alcohol offenders. The experience of treatment-oriented countries shows that treatment more often must consist of social rather than medical intervention. However, the need to develop a multimodality treatment approach to take care of all the needs of a great variety of abuser types has been recognized. 26/

50. The role of education in the school and home is particularly significant in the prevention of drug and alcohol abuse. While direct substance-abuse education programmes for youth have sometimes been counterproductive by arousing curiosity and inducing experimentation, the school and home as well as the church and other social organizations have the important task of dealing with "young people as they identify and strive to cope with the complex problems that a few of them seek to solve or escape from with chemicals. It might help in the long run if adults were to set a good example". 27/

51. All regions of the world are affected in some way by the production, manufacture, trade, traffic or consumption of narcotic drugs and psychotropic substances, as well as by the criminogenic implications thereof. Perhaps mankind's greatest hope for immediate relief from the effects of dangerous hard-core drugs lies in the maintenance, and what is more important, in the enforcement of an effective international system of control under the aegis of the United Nations. The task is to be approached through international conventions administered by a network of international agencies. The world community has created a complex system of bodies on the national and international levels devoted wholly or partially to drug control. 28/ Among these are the following:

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26/ AIDP Resolutions, p.25.

27/ Helen Nowlis, Drugs Demystified (Paris, UNESCO Press, 1975), p. 78.

28/ See John J. Cahrssen, The Organization of the United Nations to Deal with Drug Abuse (Washington, D.C., The Drug Abuse Council, 1973).

- (a) The Commission on Narcotic Drugs of the Economic and Social Council, the main policy-making organs; 29/
- (b) The United Nations Fund for Drug Abuse Control; 30/
- (c) The International Narcotics Control Board, the main supervisory and administrative organ; 31/
- (d) The United Nations Inter-Agency Advisory Committee on Drug Abuse Control, composed of the interested agencies and programmes of the United Nations system, which advises the United Nations Fund for Drug Abuse Control; 32/
- (e) The World Health Organization; 33/
- (f) The United Nations Social Defence Research Institute; 34/
- (g) Various United Nations ad hoc and expert bodies. 35/

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29/ Established by Economic and Social Council resolution 9 (I) of 16 and 18 February 1946.

30/ Created by General Assembly resolution 2719 (XXV) of 15 December 1970. See also "Narcotic drugs: activities of the United Nations Fund for Drug Abuse Control" (E/5255).

31/ Created by the 1961 Single Convention on Narcotic Drugs. See Estimated World Requirements of Narcotic Drugs in 1969 and Estimates of World Production of Opium in 1969 (United Nations publication, Sales No. E.69.XI.5. and E.F.S.69.XI.8).

32/ Created in 1973 by the Advisory Committee on Co-ordination. See report of the Commission on Narcotic Drugs on its twenty-fifth session (Official Records of the Economic and Social Council, Fifty-fourth Session, Supplement No. 3 (E/5248)).

33/ For details on activities, see John J. Cahrssen, op. cit., pp. 47-53.

34/ See United Nations Social Defence Research Institute, A Programme for Drug Use Research, Publication No. 6 (Rome, July 1973), and Psychoactive Drug Control: Issues and Recommendations, Publication No. 5 (Rome, 1973).

35/ For example, the Expert Group on Drugs in Modern Society, which deals with community reactions to drug abuse by young people. The Group was organized by the Division of Social Affairs of the United Nations Office at Geneva, within the framework of the European Social Development Programme and with the support of the United Nations Fund for Drug Abuse Control (1973).



All these bodies have devoted considerable effort to the drug abuses problem, as have various intergovernmental 36/ and non-governmental 37/ organizations. The structure of this system, with its overlapping areas of responsibility and criss-crossing lines of communication, has been frequently criticized for its complexity. 38/ It would seem both desirable and possible to simplify the organizational structures and clarify the responsibilities and lines of communication.

52. The network of international conventions concerned with narcotics control appears equally complex and cumbersome, but through amalgamation and reform considerable improvements have been made. In 66 years of international treaty-making since the Shanghai Opium Convention of 1909, 11 major treaties have been produced, of which one - the 1961 Single Convention on Narcotic Drugs (with 99 signatories) - is the amalgamating focal point of the present international arrangement. 39/, The 1972 Amendatory Protocol 40/ and the 1971 Convention on Psychotropic Substances 41/ have not yet been ratified by a sufficient number of States to have acquired treaty force. The system under these principal conventions is predicated on the voluntary assumption by States of treaty obligations which are then implemented by each national Government. 42/ The conventions are directed towards restricting the use of narcotic substances and drugs to medical and scientific uses. The system works with production estimates and import-export certifications and relies on governmental disclosure and dissemination of information. Undoubtedly, this system of indirect controls is the best the world has been able to produce up to this point. However, it is being criticized, and calls for a more direct control system are on the increase. Until that goal can be achieved nations must be encouraged to ratify the

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36/ See "Resolution adopted by the Committee of Ministers of the Council of Europe", Bulletin on Narcotics (United Nations publication), vol. XXV, No. 3, July-September 1973.

37/ For example, The International Council on Alcohol and Addiction; the International Association of Penal Law (see para. 38 above); and The World Peace Through Law Center (see M. Cherif Bassiouni, "International drug control", working paper for the Sixth World Conference of the Legal Profession, Abidjan, 26-31 August 1973).

38/ Richard H. Blum, "New directions for international drug control", paper of the International Research Group on Drug Legislation and Programmes (Geneva, 1974), on file in the United Nations Secretariat, Crime Prevention and Criminal Justice Section.

39/ United Nations, Treaty Series, vol. 520, p. 151. The Convention, which entered into force on 13 December 1964, marks a major milestone in the history of international narcotics control.

40/ Thirty-three States have so far ratified or acceded to the Protocol. It is expected to come into force shortly and will establish an even firmer universal system for drug abuse control.

41/ Nineteen States have so far accepted this Convention, which is expected to come into force by 1978-1979.

42/ See AIDP Report, p. 33 et seq.

principal international narcotics conventions and to increase the level of their co-operation. This would entail greater efforts on the part of the various United Nations agencies to co-ordinate international efforts and provide information and assistance.

53. It has been frequently suggested that just as national approaches are entirely too punitive in outlook, the international approach to narcotics control must also shift from insisting on harsh national sanctions to the institution of increase multimodality social interventions. As there is a lack of hard data on which major policy shifts could be based, it is deemed essential that the United Nations Fund for Drug Abuse Control be strengthened and that resources for evaluating national and international intervention programmes should be made available.

54. It has also been suggested that the existing accords, unified in the 1961 Single Convention on Narcotic Drugs, have failed to achieve the greater part of their goals, and that the Psychotropic Convention seems destined for the same fate. <sup>43/</sup> At the same time, the existence of world-wide expertise, the recognition of the social dangers that stem from hard-core narcotics abuse, and the realization of world-wide interdependence lead to justified optimism about an ultimate amelioration of the situation. Greater willingness on the part of States to co-operate, regional structuring of co-operative efforts in affected areas, and the provision of teams of international experts could go a long way towards a solution to the problem. Better co-operation and improvement of informational services should be given high priority.

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<sup>43/</sup> Richard H. Blum, *op. cit.*, p. 1.

#### IV. INTERPERSONAL VIOLENCE

55. The problem of violence is by no means new in the history of mankind. But in recent years it has become a matter of great concern because in many parts of the world the incidence of violent behaviour has increased significantly, particularly the incidence of violence between strangers. An analysis of the latest crime trends in the most developed and in some developing countries shows that violent crime, including homicides, assaults, rape and robbery, is increasing rapidly. Victimization data, a relative novelty in criminology, attest not only to the numerical increase but also to the significant physical and psychic suffering of those victimized. 44/ In many countries of the world violence produces a growing feeling of insecurity, which even outstrips the actual potential of victimization and causes great anxiety among the citizens of some big cities. As a consequence, certain areas of these cities are virtually deserted by the terrified public at night, and this desertion of public places aggravates the situation still further. Recent studies and statistics reflecting the crime situation point to an increase in criminal brutality in many countries. 45/ Especially dangerous for society are the violent acts committed by organized groups which, in some cases, are ideological in character and try to exploit differences between ethnic or national interests. 46/

56. It cannot be the objective of the present working paper to discuss the nature of human aggressiveness and to define or classify different acts of violence. Such aspects of the problem have been the subject of a number of surveys and publications

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44/ For details, see S. Schafer, The Victim and His Criminal: A Study of Functional Responsibility (New York, Random House, 1968); and Roger Hood and Richard Sparks, New Issues in Criminology, (New York, McGraw-Hill, 1970), chap. I.

45/ According to the World Health Statistics Report, vol. 26, No. 4 (1973), the homicide rates for most reporting countries increased significantly and in many cases doubled between the early 1950s and the 1970s. Only in Italy and Japan were there slight decreases. Inasmuch as the homicide figures are symptomatic of the total rate of interpersonal violence, it would seem to follow that the violence rate for many countries did increase out of proportion to population growth. For instance, murder in the United States of America increased more than 42 per cent in the five years between 1968 and 1973.

46/ For further information, see Douglas A. Hibbs, Jr., Mass Political Violence: A Cross-national Casual Analysis (New York, John Wiley, 1973); Ivo K. Feierabend, Rosalind L. Feierabend and Ted Robert Curf, eds., Anger, Violence and Politics: Theories and Research (Englewood Cliffs, New Jersey, Prentice-Hall, 1972). Even in India, a country with a long tradition of non-violence, and in Japan, which recently reported a downward crime trend in the past few years, there has been a considerable rise in the number of incidents of group violence.

that have appeared in recent years. <sup>47/</sup> The aim here is twofold: first, to draw attention to the fact that modern crimes seem to be undergoing a transformation in the direction of increasing numbers of victims and greater brutality; secondly, to devise ways of reversing such a dangerous trend.

57. As a phenomenon, criminal violence is extremely heterogeneous. It has become almost traditional to emphasize the relation between growing violence, on the one hand, and industrialization and urbanization with resulting anomie, on the other hand. <sup>48/</sup> However, this relation seems to be rather complex and indirect. Industrialization and urbanization per se are not causes of violence. The increase in violent behaviour should be seen in the more general context of social problems facing contemporary societies in different parts of the world. In this connexion, it is necessary to consider such factors as unemployment, discrimination against different ethnic groups, deprivation which makes it impossible to achieve a certain status except through violent or deviant behaviour, and many other conflict-producing situations. These factors are coupled with decreased opportunities for socializing in a constructive manner.

58. At the same time, there is no doubt that the effect of all these factors is always influenced by the rapid social change taking place in all countries of the world. We need only think of overcrowded cities, traffic congestion, the disintegration of the traditional tenets and values of the community, and mass migrations - all of which create considerable psychological stress and anxiety. The powerless, alienated individual who is cut off from decision making can feel in these circumstances that society is frozen; that all progress is blocked and that legitimate paths are ineffective. He may be driven to accept violence as a convenient answer, justifying his aggression or violent reaction by his own conception of social justice or patriotism. <sup>49/</sup>

59. This leads to the concept of the violent subculture, which posits a system of norms and values standing apart from the dominant or central culture. Once constituted, the subculture adheres to such standards and imposes a set of behaviour patterns for observance by its members. In this sense it can be said that the members become socially integrated within the group as they learn to adopt

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<sup>47/</sup> See, for example, James F. Short and Marvin E. Wolfgang, eds., Collective Violence (New York, Aldine-Atherton, 1972); H. D. Graham and T. R. Gurr, Violence in America: Historical and Comparative Perspectives (Washington, D.C., United States National Commission on the Causes and Prevention of Violence, 1969); Tenth Conference of Directors of Criminological Research Institutes, Violence in Society (Strasbourg, Council of Europe, 1973); International Society of Criminology, Twenty-third International Course in Criminology (Maracaibo, 1974); and S. Giora Shoham, Sarah Ben-David and Giora Rahav, "Inter-action in violence", Human Relations, vol. 27, No. 5, pp. 417-430.

<sup>48/</sup> This relation is succinctly discussed by Charles Tilly in Graham and Gurr, op. cit., p. 26.

<sup>49/</sup> According to Lewis Coser, men usually resort to violence under extremely frustrating and anxiety-producing conditions. See Lewis Coser, The Function of Social Conflict (New York, The Free Press, 1956), and Continuities in the Study of Social Conflicts (New York, The Free Press, 1968).

the type of behaviour valued by the group 50/ It might also happen that such behaviour, identified by society as criminal, would not be considered as such by the participants. Therefore, violence frequently appears to be a kind of "language" that expresses the values and behavioural patterns of such groups. 51/ Violent behaviour is in this case learned behaviour and is gratifying to the individual because it enables him to achieve recognition as a member of a group. The spread of such subcultures can be particularly dangerous for youth, which seems to be involved in violent behaviour to a great extent. National statistics in most countries reveal a general tendency for young people to engage in crime, using aggression or coercion at an increasingly early age. Under conditions of modern life, the family and other societal institutions which influence the social habits of children are facing increased challenges as they seek to teach children to resolve conflict situations through non-violent means. 52/

60. Alcohol and, to a lesser degree, drugs play a significant role in crimes of violence. 53/ The high rate of violent offenders acting under the influences of alcohol attests to the fact that intoxication itself frequently constitutes a dangerous situation. Statistics reveal that in the majority of homicides one or the other protagonist was in a state of intoxication. The next type of offence most closely related to alcohol is assault and battery. The association between alcohol abuse and criminality appears to be strong, especially among the young, where alcohol abuse frequently results in senseless and aimless offences involving mischief and destruction. 54/

61. The mass media may act as a conditioning factor with respect to violent behaviour. The discussion of the relation between the mass media and crime has

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50/ See Marvin E. Wolfgang and Franco Ferracuti, The Subculture of Violence (London, Tavistock, 1967).

51/ It was found, for example, in a set of studies conducted at Cambridge University, that "most of the violence was not committed by criminals for criminal purposes, but was rather the outcome of patterns of social behaviour among certain strata of the community". Tenth Conference of Directors of Criminological Research Institutes, op. cit., p. 134.

52/ As F. H. McClintock states, "Adults, especially parents, teachers and others in authority, frequently confess to an inability to understand modern youth culture. It would seem that the only way to bridge this gap is for the adult population to try to see society from the perspective of youth even though they may not be able to accept the values and social behaviour that result from such a perspective. There can be little doubt that part of our crime problem involving young people is the result of alienation from a social system created primarily by the adult population." (Tenth Conference of Directors of Criminological Research Institutes, op. cit., p. 134).

53/ For the relation between drug abuse and violent crime, see "Drug abuse and criminality: note by the Secretary-General" (E/AC.57/4).

54/ For an example of such an association in an African country, see Tibamanya mwene Mushanga, Criminal Homicide in Uganda (Nairobi, East African Literature Bureau, 1974), chap. 7.

been going on for many years. 55/ The media, particularly television, have a strong effect on a broad range of values, norms and patterns of public attitudes and actions. There is even a certain kind of culture shaped to a great extent by the mass media. It may be noted that certain of the mass media thrive on the depiction of violence in its most sanguine and salacious forms, whether as entertainment or in news presentations.

62. Recent research indicates that some of the previously held assumptions about the impact of the mass media's depiction of violence on human behaviour are not necessarily supportable. Thus, the so-called catharsis theory, which is based on the view that aggression is lowered when violence is experienced vicariously through the mass media, is no longer supportable. Nor does exposure to the violence depicted in the mass media lead to immediate imitation or acting out. An individual's reaction to such exposure depends on a variety of factors, especially familial and environmental. Positive home and peer-group impacts normally counteract the negative influences of exposure to violence through the mass media. But it is clear that some persons, especially juveniles, are negatively influenced by the mass media under certain circumstances, and that, especially in the long range, a dulling of sensibilities may occur. This can lead to a greater readiness to accept violence as a means of responding to conflict situations, and to the actual use of violence. 56/ Furthermore, by depicting luxurious standards of living, the mass media may also create the desire to reach those standards - if not by legitimate, then by illegitimate means. However, it is a long way between the desire to acquire luxuries and actions towards acquiring them illegitimately. These actions in turn depend on a multiplicity of factors.

53. If the mass media have the capacity to exert a negative impact on individuals by potentially increasing the likelihood of violence, it should also be possible to reverse this impact by using the mass media for the education of the public towards socially acceptable responses to situations of conflict. To that end, it is deemed important that Governments and social institutions take the initiative in suggesting guidelines, particularly in the area of public education. Moreover, the United Nations system might play a role in disseminating information about the effects which such efforts may have had in various parts of the world.

64. It seems desirable to conduct a study of the possible use of public education for purposes of crime prevention and, in particular, of the use of the mass media in portraying programmes fostering the peaceful settlement of conflict situations.

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55/ See David Lange, R. K. Baker and S. J. Ball, Mass Media and Violence (Washington, D.C., United States National Commission on the Causes and Prevention of Violence, 1969); United States Surgeon General's Scientific Advisory Committee, Television and Growing Up: The Impact of Televised Violence (Rockville, Maryland, National Institute of Mental Health, 1972); United States Surgeon General's Scientific Advisory Committee, Television and Social Behavior (Rockville, Maryland, National Institute of Mental Health, since 1972); and Hans Brack, Heinz Huebner, Dietrich Oehler and Klaus Stern, eds., Gewaltdarstellung und Pornographie im Rundfunk (Munich, C. H. Beck, 1972).

56/ See United States Surgeon General's Scientific Advisory Committee, Television and Growing up ...; and D. Lange, R. K. Baker and S. J. Ball, op. cit.

Moreover, such programmes could go a long way towards reducing the inflated fear of being victimized, which is prevalent among older citizens. 57/

65. General Assembly resolution 3218 (XXIX) on torture rests on the recognition that the use of violence in law enforcement and corrections has remained prevalent in many parts of the world, thus contributing to an atmosphere of violent action and response in many countries. The debates in the General Assembly in 1974 on that resolution and the debates in the Economic and Social Council in 1975 on capital punishment reflected concern for the potential violence-producing effect of aggressive governmental responses in all stages of the administration of criminal justice. Government is the ever-present teacher of the population. If its officers act in violation of the human rights of the citizens whom they serve, they themselves set an example for resolution of conflicts through violation of human rights.

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57/ See Richard Harris, The Fear of Crime (New York, Frederick A. Praeger, 59).

## V. VIOLENCE OF TRANSNATIONAL AND COMPARATIVE INTERNATIONAL SIGNIFICANCE

66. As the title of the present chapter indicates, it might be useful to distinguish between acts of violence that are of transnational significance in the sense that the commission of such acts involves the interests of more than one State, and other acts of violence that involve only one State but are frequently imitated in other States. Such acts will be referred to as violence of comparative international significance. Both of these forms of violence are of concern to the United Nations and Member States, though perhaps for different reasons.

67. In spite of the ubiquity of violence in world history, the recent rise of violence of transnational and comparative international significance underscores the need for international investigation and action. The need is reinforced because of the increasing vulnerability of industrial society and the potentially destructive impact of new weaponry, including the potentiality of international atomic theft and blackmail. <sup>58/</sup> Furthermore, the projection of growing social vulnerability to violent disruption suggests that as a weapon which promises returns far out of proportion to the amount of time, energy and materials invested in it, transnational violence will become an even more economically efficient tool in the future. This is particularly significant when those who are more respectful of human life and other human values are likely to yield to international blackmail rather than sacrifice the lives of innocent hostages or bystanders. <sup>59/</sup>

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<sup>58/</sup> Apprehensions in this respect have been expressed in several newspaper articles. For example, on 24 April 1975, in an article entitled, "New laser technique may facilitate output of atomic fuel and weapons", The New York Times stated, "It [the new laser technique] also casts in a new light fears about the theft of potential bomb fuel, such as plutonium, by terrorists, since it suggests that bomb fuel could more easily be extracted from raw uranium without recourse to elaborate thievery." See also Mason Willrich and Theodore B. Taylor, Nuclear Theft: Risks and Safeguards (Cambridge, Massachusetts, Ballinger, 1974).

<sup>59/</sup> Select bibliographies on transnational violence can be found in ST/LIB/31; Roger Cosyns-Verhagen, Actualité du terrorisme (Wavre, Centre d'Information et de Documentation, 1973); Bart de Schutter, Bibliography on International Criminal Law (Leiden, A. W. Sijthoff, 1972), pp. 179 (hostages), 282 (air piracy), 305-371 (terrorism). For comprehensive general studies, see La prophylaxie du terrorisme: études internationales de psychosociologie criminelle (Paris, 1971 and 1972); M. Cherif Bassiouni, ed., International Terrorism and Political Crimes (Springfield, Illinois, Charles C. Thomas, 1975); I. P. Blischtschenko and N. Shdanow, "Die Bekämpfung des Terrorismus und das Prinzip der Immunität von Diplomaten", Deutsche Aussenpolitik, vol. 18, No. 5 (Berlin, 1973), pp. 1089-1104, and "Mezhdunarodno-pravovaja borba s. terrorism", Pravovedenie, No. 1 (Leningrad, 1975), pp. 85-94.



68. Violence of transnational or comparative international significance could be classified for purposes of discussion under four headings:

(a) Instrumental violence, which comprises violence in furtherance of property crime, some forms of sexual coercion, and violence to avoid individual arrest;

(b) Interpersonal violence in cases of a prior personal relationship of permanence or of some duration, or of a casual or transitory nature;

(c) Destructive and sensational violence at the community, national and international levels;

(d) Ideological and political violence at the above-named levels. <sup>60/</sup> Particular acts of transnational violence may fall into one or more of these categories, and this should be recognized in studying the phenomenon of violence. For example, acts of terrorism overlap both ideological and sensational violence; and one of the highly visible forms of international violence, the so-called hijacking offence (unlawful interference with aircraft in flight), falls into the category of both instrumental and ideological violence, and some cases of hijacking have unquestionably been of a sensational character as well. The kidnapping of important persons for ransom frequently is in the nature of instrumental and ideological violence, while the threat to or destruction of public institutions and installations, which is frequently carried out by means of explosives and which instil public fear and endangers public safety, has usually been ideological and sensational but rarely instrumental. This classificatory scheme of acts of terrorism avoids the confusion which arises whenever terrorism is treated as if it were a defined international crime.

69. Acts of violence which have either transnational or comparative international significance are almost universally defined as crimes under national penal codes and are ordinarily the subject of international treaties and conventions which refer to these acts by various definitions. <sup>61/</sup> Where universal jurisdiction does not already extend to such acts, it should be provided for in the international network of treaties and conventions, since offenders falling into these categories are prone to cross national boundaries.

70. The entire international community abhors acts of violence which spread fear

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<sup>60/</sup> See F. H. McClintock, "The phenomenological and contextual analysis of violence", Studies in Criminology, vol. XI (Strasbourg, Council of Europe, 1974). This classification refers not only to violent acts commonly called "terrorism", but also to various forms of interpersonal violence, as mentioned in chapter IV above.

<sup>61/</sup> See annex to the present paper.

and terror and cause death and destruction among innocent persons. The General Assembly of the United Nations has condemned it, and Governments have taken stands against it. <sup>62/</sup> There is indeed a near universal recognition that bloodshed, terrorization and destruction of the innocent should be avoided, even in the legitimate struggle for national self-determination. Indeed, the root causes for some acts of transnational violence can be found in the misery, fear, frustration, grievance and despair of those aspiring to international recognition of their national, ethnic and social goals. Many nations in existence today had to undergo long periods of struggle. The men and women who subsequently became their national heroes and political leaders suffered inner turmoil, personal hardship and distress before national independence was achieved. Only a few nations were lucky enough to gain their independence and national dignity by peaceful methods. The Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders clearly has no jurisdiction to deal with the political issues which may well be the root causes of some transnational violence. But the representatives of all countries and of non-governmental and other organizations should readily understand the interrelation of certain forms of transnational violence and the contemporary failure of the international community to have eliminated its root causes.

71. Pending the peaceful resolution of justified grievances of national or international dimensions, the international community has a clear right and duty to protect itself against irresponsible degradation of noble purposes by acts of transnational violence and terror. The problem of preventing acts of transnational violence should be considered in relation to the socio-psychological matrix of contemporary society. In view of the traditional glorification of such acts for resolving social conflicts and the public admiration that such acts frequently inspire in many areas of the world, it is deemed important that statesmen, opinion makers and the general public alike re-examine their basic premises regarding the use of force in the resolution of conflicts.

72. Solutions to the problems of transnational violence include:

(a) A long-range solution, which under the aegis of the United Nations, seeks to alleviate the conditions of those suffering from colonialism and apartheid, and which aims at the achievement of national dignity and sovereignty of all people. Much transnational violence could be eliminated if this long-range solution were to be attained as quickly as possible;

(b) An interim solution, which requires the broadening and intensification of the network of international treaties and conventions providing for the detection, apprehension and trial of those guilty of terrorist activity, whatever the legal definition. The texts of these instruments constitute admirable statements of international law but by themselves do not assure that human rights

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<sup>62/</sup> See General Assembly resolution 3034 (XXVII) of 18 December 1972. See also Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 28 (A/9028). See also A/C.6/418; A/AC.160/1 and Add.2, and A/AC.160/2, specified in the annex, below.

will be protected in the absence of implementation and enforcement. More effective and faithful adherence to these agreements and stricter implementation are a sine qua non for success in the prevention of transnational violence;

(c) A continuous effort on the part of the international community against the violence-precipitating practices of some countries, which are tolerated by some Governments and amount to torture and cruel, inhuman and degrading treatment and punishment of persons in state custody. These activities, frequently regarded as forms of state terrorism, also include such acts as the interference by violent means in the internal policies and concerns of other nations, or the use of unnecessary force by those responsible for maintaining domestic policies.

73. No one has the right to use whatever means he chooses for the accomplishment of idealistic goals, nor should legal systems label as "terrorism" everything that is regarded as an unacceptable act. International co-operation leading towards a solution to the problem is mandatory. For the purpose of achieving an interim solution, the following approaches might be suggested:

(a) Extension of universal jurisdiction, requiring the State in possession of an alleged offender to try that person under its own national law;

(b) Extradition of such a person to a requesting State, especially to one with preferred jurisdiction. This measure would be carried out subject to international concern for the safeguards on human rights;

(c) Trial by an international court of criminal justice. <sup>63/</sup> In this regard, it is to be noted that after breaking the deadlock over the definition of aggression, <sup>64/</sup> and after establishing apartheid as an international

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<sup>63/</sup> It has been suggested that an International Court of Criminal Justice should be created because it would be better qualified than the courts of the States detaining an alleged offender to measure the dangers of persecution and judge the universality of values endangered by transnational violence. See The Establishment of an International Criminal Court, a report on the First International Criminal Law Conference, held at Wingspread, Wisconsin, September 1971. See also Gerhard O. W. Mueller, Two Enforcement Models for International Criminal Justice, mémoires publiés par la Faculté de Droit de Genève, tirés à part du volume No. 25, 1969. One might think also about international courts with limited competence, attached, for example, to the International Civil Aviation Organization (ICAO) and other international organizations. See Jacob Sundberg, "Unlawful seizure of aircraft", Arkiv for Luftrett, vol. 6, No. 1 (Oslo, September 1974), p. 62.

<sup>64/</sup> See General Assembly resolution 3314 (XXIX) of 14 January 1975.

crime, 65/ the United Nations has achieved a position from which it can proceed with the codification of certain forms of transnational violence as international crimes. This would also be in furtherance of its plans for the establishment of the long-projected International Court of Criminal Justice. 66/ However, the creation of the International Court of Criminal Justice might well take considerable time, and therefore other agencies with jurisdiction over particular regions or subject areas might have to be entrusted with the tasks ultimately to be performed by the International Court of Criminal Justice;

(d) The exchange of technical information on the protection of persons and property against acts of transnational violence, with or without formal international arrangements, such as the exchange provided by the Hague Convention for the Suppression of Unlawful Seizure of Aircraft 67/ and the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation; 68/

(e) Combinations of the above methods. Researchers have more recently pointed to the spectacular success of the international community in drastically curtailing the number of successful incidents of unlawful seizure or of interference with commercial aircraft. For example, because of the combination of tightened "anti-skyjack" measures, and through international agreement and co-operation providing for the apprehension of hijackers and saboteurs, such offences have declined dramatically. This has resulted from both the institution of new procedures and a more general adherence to international conventions since 1972. The following statistics reflect the dramatic decline in these offences:

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65/ The General Assembly, in resolutions 2022 (XX) of 5 November 1965, 2074 (XX) of 17 December 1965, 2105 (XX) of 20 December 1965, 2189 (XXI) of 13 December 1966, 2671 F (XXV) of 8 December 1970 and 2922 (XXVII) of 15 November 1972, has described the policy of apartheid as a crime against humanity. International law requires the prosecution and punishment of persons who have committed such a crime. Accordingly, by resolution 3068 (XXVIII) of 30 November 1973, the General Assembly adopted and opened for signature and ratification the International Convention on the Suppression and Punishment of the Crime of Apartheid.

66/ See Report of the 1953 Committee on International Criminal Jurisdiction, 27 July-20 August 1953 (Official Records of the General Assembly, Ninth Session, Supplement No. 12 (A/2645), pp. 23-26). See also Report of the International Law Commission Covering the Work of its Sixth Session, 3 June-28 July 1954 (ibid., Supplement No. 9 (A/2693), pp. 11-12).

67/ Signed at The Hague on 16 December 1970 and entered into force on 14 October 1971.

68/ Signed at Montreal on 23 September 1971 but not yet entered into force.

<u>Year</u>	<u>Attempted or completed seizures</u>	<u>Attempted or completed sabotage</u>	<u>Persons affected</u>	<u>Countries involved</u>	<u>Fatalities</u>	<u>Injuries</u>
1930-1967	_____ 79 _____	_____	...	...	...	...
1968	_____ 35 _____	_____	...	...	...	...
1969	80	5	4,489	52	6	33
1970	74	22	5,011	47	92	42
1971	51	18	4,016	33	113	15
1972	73	43	4,942	45	185	108
1973	33	19	2,278	47	205	83
1974	25	14	1,942	23	171	40
1975 (through 5 March)	7	3	...	12	...	...

The success achieved in curtailing such offences is generally attributed to a combination of the following factors: an increase in the number and coverage in international conventions dealing with hijackers, especially their extradition; the greater willingness of Governments to comply with these conventions, thus depriving hijackers of safe havens; and the effective dissemination of security data and the widespread use of security devices which impede acts of violence against civil aviation.

74. The juridical approach alone might not be adequate to resolve the issues relating to transnational and international violence. Frequently, situations of conflict can be resolved by means short of accusation and trial. These means may include a system of reports, communications and observations, as well as fact-finding investigations, arbitration or other accepted methods of conflict resolution. In view of the fact that there is already a considerable body of international law in existence, such softer schemes of international conflict resolution might indeed be needed to develop and maintain requisite mechanisms for the prevention of transnational violence and other forms of transnational and international crime. A model code or set of guidelines could be developed which would ensure the uniform implementation of existing and future conventions for the prevention of transnational violence. Moreover, the creation of an internationally co-ordinated fact-finding board for the investigation and resolution of situations conducive to violence might be useful for the solution of international and transnational conflict situations. Even if mankind has not yet succeeded in creating a social order free from the misery, frustration and despair which cause and provoke violence, the efforts to eliminate the origins and underlying causes of transnational violence should be intense and continuous.

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## VI. CRIMINALITY RELATED TO MOTORIZED TRAFFIC

75. Traffic accidents continue to exact a socially unacceptable toll in terms of death, human suffering and social and economic costs in most regions of the world. During 1973, for example, 27 European countries reported a total of 1,653,000 motor vehicle accidents, involving personal injury to 2,222,000 and death to 93,000 persons. These figures represented an increase in the incidence of accidents resulting in injury of 22 per cent over those reported for the year 1963. Deaths during the same 10-year period rose by 38 per cent and injuries to motorists rose by 24 per cent. A similar problem exists in the United States of America where the number of traffic accidents involving injuries between 1963 and 1973 increased by 30 per cent, traffic deaths by 28 per cent, and persons injured by 25 per cent. <sup>69/</sup>

76. Traffic accidents are attributal to a variety of causes. However, there is evidence to suggest that most occur as a result of poor judgement on the part of drivers, whether it be driving at excessive speeds, driving while under the influence of alcohol or drugs, or failure to comply with existing traffic regulations. Additionally, the causes of many highway collisions are attributable to poorly designed highways, unsafe automobiles, inadequately trained drivers, and insufficient warning signs and mechanisms.

77. Traffic problems differ between the developed and the developing countries. In the former, highways, for the most part, are not only adequate but in many cases are designed so well that high-speed driving is encouraged, which increases the severity of accidents when they do occur. In these countries, drivers have had many years of exposure to the motor-car and are relatively well trained in its operation. In the developing countries, highway systems are often inadequate to cope with the sudden increase in the number of automobiles, and such countries are usually not in a position to expend resources on massive highway construction programmes. In addition, the ownership and operation of a motor-car is a relatively new experience for most citizens in developing countries, and as a result, driving skills are lacking.

78. The most direct results of traffic accidents are, of course, death and injury to drivers, passengers and pedestrians. In many cases, heads of families, who are relied upon for family support, are rendered incapable of fulfilling their responsibilities, and as a result, surviving family members often become charges of the State, either temporarily or permanently. A less direct, but none the less significant result of motorization and accidents resulting therefrom, is the cost of maintaining traffic law enforcement and accident investigation units. These duties have traditionally been the responsibility of the police, who are already overburdened with more important crime prevention and detection tasks. With the

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<sup>69/</sup> See Statistics of Road Traffic Accidents in Europe, vol. XX (United Nations publication, Sales No. E/F/R.74 II.E.19), which includes also the statistics for the United States of America by reference to Accidents Facts (Accidents), (Chicago, National Safety Council).

increasing professionalization of the police, the costs of these services have been escalating rapidly. While there are regions where it would be impractical and, indeed, uneconomic to divest the police of traffic control responsibilities, there are many areas, especially urban centres, where traffic control and the regulation of parking and other related tasks, are more appropriately assigned to special organizations whose members require less varied and intensive training than the regular police. This has the effect of freeing regular policemen to carry out their duties in the field of crime prevention for which they have been trained at great cost to the public.

79. In many nations, traffic infractions of all kinds are disposed of by the regular judicial system, absorbing a significant portion of the time of the police, prosecutors and the judiciary. While few would disagree that the more serious and flagrant types of traffic violations, such as reckless or dangerous driving, driving under the influence of alcohol or drugs, and criminal negligence in the operation of a motor vehicle, should continue to be dealt with as criminal or quasi-criminal offences, consideration should be given to decriminalizing the less serious violations. In some regions this has been done through the establishment of voluntary penalty systems (predetermined monetary penalties based on the severity of the infraction which can be paid voluntarily by the offender without reference to the courts), the so-called demerit point system under which drivers may lose their licence after an accumulation of infractions, consideration of the case by driver review boards, and the like. In some countries, accident-prone drivers are required to undergo compulsory driver training in order to have their driving privileges reinstated. A similar system is used in some regions to cope with the chronic drinking driver. In the view of many, the sanction of cancelling driving privileges has proved more effective than pecuniary penalties or prison sentences. 70/

80. Many solutions have been suggested as a means of reducing traffic accidents. However, there appears to be no single answer to the problem. Unquestionably, the reduction of speed limits can produce favourable results. This was evidenced in some countries during the energy crisis in 1974. In the United States of America, traffic mishaps, particularly those of a serious nature resulting in deaths and injuries, dropped noticeably when speed limits were reduced during the energy crisis. 71/ (It should be noted, however, that during the period when petrol was relatively scarce, traffic density had also dropped sharply.) Countries that have dealt severely with drinking drivers have similarly

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70/ See Wolf Middendorff, "The effectiveness of punishment especially in relation to traffic offences", Publication of the Comparative Criminal Law Project, New York University, vol. 5. (South Hackensack, New Jersey, Fred B. Rothman and Co., 1968), pp. 103-106; Franklin E. Zimring and Gordon Hawkins, Deterrence: The Legal Threat in Crime Control (Chicago, University of Chicago Press, 1973); and Guenther Kaiser, Verkehrsdelinquenz und Generalprävention (Tuebingen, Mohr, 1970).

71/ "Preliminary analysis of motor vehicle fatality reduction factors", Public Information (Chicago, Illinois, National Safety Council of the United States of America, 3 March 1975).

found that traffic accidents decreased. Certain aspects of the traffic accident problem have been recognized as psycho-sociological ones in so far as some drivers are concerned. These aspects include, for example, the challenge of risk-taking, discourteous or aggressive behaviour, or the social prestige derived from owning a motor vehicle. For some persons, the motor vehicle has become an extension of their personality and thus an instrument of aggression or frustration. Means must be found to remove such persons from the highway. Moreover, to aid accident prevention, extensive public education programmes and driver-training courses, especially in the schools, are recommended, since they have produced encouraging results in some countries.

81. In recent years, pressure has been brought to bear on automobile manufacturers in an effort to improve existing safety features of motor vehicles and to develop new ones, such as safety belts, collapsible bumpers, auxiliary braking systems, and the like. Unfortunately, the safety standards applied by different countries vary widely, and consequently there is little uniformity of international dimension. In the developing countries, most automobiles are imported, and as a result, it is difficult for such nations to apply effective sanctions to offending manufacturers. It would appear that greater international co-operation in this field is indicated.

82. In some countries, research indicates that many traffic accidents are caused by factors unrelated to the motor vehicle or its operator, such as poorly designed highways, hazardous intersections, uncontrolled railway crossings, road surfaces that become extremely slippery when wet, and the like. Improvements are being made in this regard in many countries. The development of such innovations as "break-away" road signs and utility poles, which collapse on impact, and redesigned guard-rails, which deflect rather than impale automobiles, could be cited as examples. The international exchange of information relating to such developments should prove useful.

83. In the area of enforcement, much use has been made of radar speedometers, Vascar and other electronic speed detection devices, as well as breathalyzers and aircraft patrols to detect and monitor errant motorists. However, such equipment is costly and its acquisition may not be within the financial capacities of some countries. Likewise, saturation patrolling by traffic police, while possibly effective, is equally expensive and beyond the resources of some nations. Perhaps the least expensive but most effective means of reducing traffic accidents and criminality related to motorization is a well-planned public education programme carried out through community organizations as well as the police and with the support of the mass media.

84. With the increasing mobility of the motoring public, who frequently travel across international boundaries on business or pleasure, greater efforts could be made to standardize traffic signs and regulations. In addition, international agreements could be reached which would provide for the exchange of pertinent data relating to serious traffic infractions committed by persons who move from country to country and who, by their irresponsible driving habits, pose a menace to the motoring public. Indeed, reciprocal arrangements could be made whereby traffic offences committed in one country could be dealt with in another.



85. Clearly, the use of the motor vehicle is increasing and will continue to increase to a greater degree, perhaps, in the developing countries. It is therefore necessary that a greater effort be made by Governments, by private organizations at the national and local levels, and indeed by the individual citizen, whether he be a driver or pedestrian, to reduce the incidence of traffic accidents, which have reached alarming proportions. By their retention in the criminal justice system, these offences have imposed intolerable burdens on all agencies of criminal justice, which have been designed principally to deal with street crime rather than with road traffic offences. While traditional criminality involves criminal intention, the criminality of the technical age, especially traffic offences, rests largely on human carelessness or public neglect. Within the sphere of new forms and dimensions of criminality, in no other instance is there a greater need for the development and deployment of methods and solutions outside of the criminal justice system than in the area of criminality related to motorized traffic.

VII. CRIMINALITY ASSOCIATED WITH MIGRATION AND FLIGHT FROM  
NATURAL DISASTERS AND HOSTILITIES

86. The mass transfer of human beings across international boundaries merits international concern in view of the fact that a high rate of mobility among international labourers is likely to persist as a permanent feature of the international socio-economic system. The risk of degrading exploitation of such labourers looms large. The same risk applies to disaster victims and refugees, millions of whom have crossed borders without the necessary visa requirements and working permits. History teaches that there have been instances in which unfortunate masses of refugees were virtually compelled to become criminals in order to survive.

87. There are three situations of social and criminological concern that exert severe strain on law enforcement and the administration of justice:

(a) Natural disasters, such as earthquakes, epidemic diseases, droughts and other calamities of this nature which often result in extreme suffering and economic ruin for the survivors and, on occasion, in the uprooting or displacement of entire populations;

(b) Political persecution which compels individuals to flee from such persecution and seek asylum in a foreign country;

(c) Unfavourable economic conditions which lead workers to leave one country and illegally enter another country with better economic conditions in search of employment and without complying with the requirements for visas and working permits.

88. Although these situations have different origins, they often entail similar forms of criminality, such as passport and visa violations, falsification of documents, exploitation of labour, trespass, larceny, prostitution and other offences. Thus people who would otherwise not have been criminals are often compelled to become such by conditions that are beyond their control. Moreover, the ghetto-like conditions in which illegal aliens and refugees often are forced to live usually result in social disorganization and sometimes in political agitation, which in turn, might encourage criminal behaviour.

89. As far as migratory labourers who have been transferred legally to other countries for purposes of lawful employment are concerned, there is no evidence to suggest that there is among them a greater incidence of criminality than among the comparable age groups in their countries of residence or origin. Indeed, some studies have found that in most instances the crime rate of migrants was lower than that of the comparable population in the sending and receiving countries. <sup>72/</sup> However, where host countries had failed to integrate migratory labourers into

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<sup>72/</sup> United Nations Social Defense Research Institute, Migration: Report of the Research Conference on Migration, (Rome, July 1973), p. 1.

the social system there was a danger of a negative effect over the long run, particularly through criminality resulting from ghetto-like living conditions and cultural conflict between the new generation and both the host country and earlier generations. Moreover, basically lawful forms of present-day migratory movements have led to such multiple abuses as unlawful forms of recruitment, maltreatment of workers and, in particular, the illegal transportation and substandard employment of migrant workers. 73/

90. The most significant problem involves the considerable number of illegal immigrants who are brought into host countries frequently by unscrupulous purveyors of cheap labour and often under circumstances that subject them to unfavourable living conditions, including slum dwellings, malnutrition and poor education. The absorption of these governmentally unscreened immigrants into the national economy is deemed unacceptable to most Governments, not only because of interference with planned labour policies but also for reasons of public health. 74/ In addition, the methods used in transporting these labourers to the host country and the life style imposed upon them after their arrival frequently entail violations of basic human rights.

91. Countries confronted with either the absorption or the return of illegal migrants sometimes face a serious dilemma, since in some cases the illegal migrant is subject to prosecution either for unauthorized departure or for other criminal charges in his country of origin. Moreover, many refugees seek asylum under claim of political victimization. Lacking passports and working papers, such persons usually depend on the goodwill of Governments or often seek to bribe government officials to legitimize their status. So far, it has been customary for each country to use its discretion in dealing with the problem. This matter has not yet been dealt with successfully by international conventions. 75/

92. With respect to disaster victims, such as those driven across national borders because of hurricanes, droughts and other natural calamities, the United Nations has established the Office of Disaster Relief Co-ordinator. The

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73/ These abuses have been denounced by international authorities. See, in particular, Economic and Social Council resolution 1706 (LIII) of 28 July 1972, General Assembly resolution 2920 (XXVII) of 15 November 1972, and Commission on Human Rights resolution 3 (XXIX) of 13 March 1973 (Official Records of the Economic and Social Council, Fifty-fourth Session, Supplement No. 6, chap. XX). See also the second preambular paragraph of resolution IV concerning conditions of equality of treatment of migrant workers, adopted by the International Labour Conference at its fifty-seventh session at Geneva on 27 June 1972.

74/ See The New York Times, 18 May 1975, p. 34.

75/ See Daniel Nsereko, "The status of refugees under international law" (1974, unpublished dissertation on file at the New York University Library), which has particular relevance to the situation in Africa.

activities of the Office cover two substantive programmes - namely, disaster prevention and preparedness, and disaster relief (mobilization and co-ordination of relief and emergency assistance to Governments of disaster-stricken countries). 76/

93. As far as refugees from war zones and civil strife are concerned, the basic structure of an effective international machinery has already been established. The United Nations High Commissioner for Refugees has the task of extending the protection of the United Nations to victims of such calamities, and has established a system which rests on almost 30 years of experience in dealing with refugees. 77/ The United Nations Relief and Works Agency for Palestinian Refugees in the Near East, the United Nations Children's Fund, the International Red Cross and other international non-governmental and intergovernmental organizations have contributed towards the establishment of relief programmes. However, recent experience has shown that relief is not always instantaneously available when

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76/ See General Assembly resolutions 2816 (XXVI) of 14 December 1971, 3152 (XXVIII) of 14 December 1973 and 3243 (XXIX) of 29 November 1974; and Economic and Social Council resolution 1803 (LV) of 7 August 1973. See also the report of the Secretary-General on assistance in cases of natural disaster and other situations (A/9637). A number of United Nations bodies or specialized agencies are carrying out activities related to disaster prevention and relief. The League of Red Cross Societies and the International Civil Defense Organization are the main international organizations active in the field of disaster preparedness.

77/ In the field of protection of and assistance to refugees, the policy-making organ is the Executive Committee of the United Nations High Commissioner for Refugees, established under General Assembly resolution 319 (IV) of 3 December 1949). The Statute of the Office of the High Commissioner for Refugees is contained in General Assembly resolution 428 (V) of 14 December 1950, completed by resolution 1166 (XII) of 26 November 1957, and amplified in the light of changing circumstances by several subsequent resolutions, the last of which is resolution 3271 (XXIX) of 10 December 1974. The General Assembly has authorized the High Commissioner:

(a) To use his "good offices" for assistance to refugees who do not otherwise come within the competence of the United Nations (General Assembly resolutions 1388 (XIV) of 20 November 1959, 1499 (XV) of 5 December 1960 and 1673 (XVI) of 18 December 1961);

(b) To participate, at the invitation of the Secretary-General, in those humanitarian endeavours of the United Nations for which the Office has particular expertise and competence (General Assembly resolutions 2790 (XXVI) of 6 December 1971, 2956 (XXVII) and 2958 (XXVII) of 12 December 1972 and 3143 (XXVIII) of 14 December 1973 and 3271 (XXIX) of 10 December 1974).

The term of office of the High Commissioner was last extended to 31 December 1978 (Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 30 (A/9030)). See also A/9612 and Add.1.

needed. The agencies involved frequently lack the funds and capacity to intervene swiftly so as to provide care in the first days and weeks of shock and suffering. Moreover, experience has shown that there is a serious danger that relief materials will be illegally diverted when they arrive.

94. Suggestions for dealing with problems of migrants and refugees at the international level include the issuance to them of international travel documents by the United Nations for the period during which the determination of their status is being considered by the appropriate national authorities. As far as crime prevention and criminal justice are concerned, the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders should extend the discussion to the specific criminological issues involved and should seek specific ways of making criminological information available to international and national social welfare organizations that are concerned with the problems of immigrants and the problems of war and disaster victims. Eradication of the root causes of such problems, such as war and political conflict, and planning against the effects of natural disasters should be the principal aims of the United Nations. These efforts, however, are of a political and social nature and are not of direct concern to specialists in criminal justice. It is urgent that different social welfare organs be used to deal with such matters.

## VIII. FEMALE CRIMINALITY

95. Both developed and developing societies are witnessing an elevation of the status of women, <sup>78/</sup> and are thus working towards achieving the ideals of the Universal Declaration of Human Rights. However, just as women are attaining opportunities in legitimate fields, some among them are finding their way into and succeeding at crimes which traditionally have been committed primarily by men. Considering that the barriers which once protected male prerogatives are breaking down and that socially defined sex roles are becoming increasingly alike, it should come as no surprise that once women are provided with opportunities traditionally reserved for males, they will endeavour to gain equal status, criminal as well as civil.

96. Mass media throughout the world are increasingly informing the public about a new type of female offender, and this information is supported by statistical reports which demonstrate the real dimensions of the emergence of female criminality. However, it must be kept in mind that some of the statistical increase is unquestionably a result of the fact that the police have become less reluctant to arrest and charge female suspects, and the courts less reluctant to convict them. Moreover, the total proportion of female offenders, even in the most affected countries, still remains relatively small as compared with male offenders. But the following statistical examples show that crimes committed by women are rising faster than crimes committed by men.

97. Statistics provided by the United States Federal Bureau of Investigation (FBI) indicate that during the 12-year period from 1960 to 1972 the arrest rate among females in the United States rose nearly three times faster than among males. <sup>79/</sup> During this period the number of women arrested for robbery rose by 277 per cent while the male figure rose by 169 per cent. Similar differences are found in embezzlement (up 280 per cent for women, 50 per cent for men), larceny (up 303 per cent for women, 82 per cent for men), and burglary (up 168 per cent for women, 63 per cent for men). A number of indications suggest that the new female criminal, like her male counterpart, may well be primarily concerned with bettering her financial position and only secondarily interested in committing violence. Data from other nations concur with the American experience: as the social disparity between the sexes decreases, there is a correlative increase in female criminality. <sup>80/</sup> Although there is little cross-cultural data available to confirm the size of the world-wide trend in female criminality, most of the scant statistical evidence demonstrates that the increasing crime rate among women is a

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<sup>78/</sup> More about the participation of women in development is outlined in Report on the World Social Situation, 1974 (United Nations publication, Sales No. E.75.IV.6), part two, chap. 15.

<sup>79/</sup> United States of America, Department of Justice, Crime in the United States: Uniform Crime Reports (Washington, D.C., 1972), p. 124.

<sup>80/</sup> Edwin H. Sutherland and Donald R. Cressey, Principles of Criminology (Philadelphia, J. B. Lippencott, 1966), p. 139.

new universal phenomenon. Japan's White Paper on Crime shows that the percentage of females in the total number of offenders increased from 9.8 per cent in 1962 to 13.6 per cent in 1972. 81/

98. In the Federal Republic of Germany, the percentage of females in the total number of offenders increased from 15.4 in 1963 to 17.1 in 1970. 82/ Canadian statistics point to similar trends. They show that in 1969 women constituted 14 per cent of the total number of persons charged with indictable offences, whereas in 1960 only 7 per cent of the persons charged with these offences were women. 83/ In New Zealand, except for a small peak during the war years, followed by a decrease after the war, the female crime rate remained relatively low and constant between 1937 and 1953; this trend was followed by a consistent and dramatic rise that continued throughout the 1960s. 84/ According to Norwegian statistics for the period 1860-1958, females never accounted for more than 4 per cent of all official criminals. However, after 1958 an upward trend began, and at present females account for about 10 per cent of crime in Norway. 85/

99. Developing countries are not immune to the phenomenon of rising female crime. Brazilian data show that although the percentage of all persons arrested yearly remained consistent at 4 or 5 between 1957 and 1971, in terms of absolute numbers of offences among females there has been an 89 per cent increase (from 1,310 to 2,479), whereas among males there has been an increase of only 43 per cent (from 32,139 to 46,268). 86/ According to statistics from the Central Bureau of Correctional Services of India, the data for the 4-year period 1962-1965 show that the percentage increase of females in the total convict population is over four times that of males. 87/

100. Apparently not all social systems reveal the same trend at the same time. In Poland, although the female proportion of criminal convicts rose from a pre-war figure of 16.7 per cent (1932) to a post-war figure of 25.9 per cent (1951), a steady decline followed, so that by 1972 females constituted only 11.4 per cent of the convict population. After the Second World War Polish women entered the labour

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81/ Government of Japan, Research and Training Institute of the Ministry of Justice, Summary of the White Paper on Crime (Tokyo, 1973).

82/ Federal Republic of Germany, Bundeskriminalamt, Polizeiliche Kriminalstatistik, 1963 and 1970.

83/ Canada, Statistics on Criminal and Other Offences, 1969 (Ottawa, Information Canada, 1973), table 2. Note: figures do not include Alberta and Quebec.

84/ New Zealand, Department of Justice, Crime in New Zealand (Wellington, New Zealand, R. E. Owen, 1968), chap. 7.

85/ Verbal communication by Nils Christie.

86/ Instituto Brasileiro de Estatística, Fundação Instituto Brasileiro de Geografia e Estatística, Anuário Estatístico do Brasil, 1954-1973.

87/ Neera Kuckreja Sohoni, "Women prisoners", The Indian Journal of Social Work, vol. 35, No. 2 (July 1974), 35:2 pp. 137-148.

force in large numbers, and the figures clearly indicate that as their economic participation increased, so did their criminal activities. However, it appears that normative controls continued to operate and within a decade female criminality had dropped to well below the pre-war level.

101. What has been reported about the rise in adult female criminality holds even more true for female juvenile delinquency. Clearly, young girls are following in the footsteps of their criminal mothers and older sisters. In some countries it is no longer uncommon for these youngsters to participate in burglaries, auto theft and even extortion rings which prey upon schoolmates. Interestingly, many of the factors which have been advanced in various theories as causative of male delinquency - confusing early models, a sharp role-shift at puberty and peer reinforcement of aggression, for example - apply as well to the modern girl.

102. The relationship between growing affluence and delinquency rates has been the subject of reports from many countries. <sup>88/</sup> There are, however, societies which have no concept of delinquency. <sup>89/</sup> In folk communities, such as the traditional Eskimo village, certain tribes of India, and the Indian-type barrio of Mexico, the minimal problems of bad boys and contrary girls are handled informally at the family level. For communities in the transitional stage between folk and urban standards, contact with developed cultures has disseminated new notions to some of the youngsters. Control by the elders is no longer effective, and a new phase of social adolescence emerges in the life cycle. During this new phase the individual is subject to peer group pressures, and his behaviour is characteristically rebellious and impulsive. In several ways this period of social adolescence is most traumatic for teen-age girls in developing countries. For them it is a transition within a transition. They must not only learn to become women in a developing society but they must also cope with the uncertainties of the female's position in an urbanized structure. With technological advances reducing the number of unskilled jobs and with cultural changes redefining a woman's place, never before have so many young females had so much incentive to desert traditional roles and so few opportunities to find new ones. A rise in delinquency under such turbulent conditions is predictable.

103. Finally, it should be noted that the available data indicate a change in the form and dimension of criminality even among some of the more traditional female offenders: prostitutes are showing tendencies of greater aggressiveness and independence from male protectors and pimps; drug abuse is increasing among females as they are increasingly subjected to the stresses and temptations heretofore

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<sup>88/</sup> In regard to Japan, see for example, Jackson Toby, "Affluence and Adolescent Crime", Task Force Report: Juvenile Delinquency and Youth Crime, (Washington, D.C., President's Commission on Law Enforcement and Administration of Justice, Government Printing Office, 1967). In regard to Argentina, see Lois B. De Fleur, Delinquency in Argentina, (Pullman, Washington, Washington State University Press, 1970). In regard to Sweden, see J. Toby, op. cit.; and Jackson E. Baur, "The Trend of Juvenile Offences in the Netherlands and the United States", Journal of Criminal Law, Criminology, and Police Science, vol. 55 (1964), pp. 359-369.

<sup>89/</sup> Ruth S. Cavan and Jordon T. Cavan, Delinquency and Crime: Cross-Cultural Perspective (Philadelphia, Lippincott, 1968).



reserved for males; and female economic offenders are broadening their patterns of criminal behaviour with increasing opportunities ranging from shoplifting to embezzlement, and from thefts of pencils to corporate frauds. Above all, females have entered the ranks of the political activists and, consequently, of political offenders.

104. Sex-differentiated social roles have evoked diverse responses from different segments of the criminal justice system, resulting in inequitable dispositions. Women are perceived as more dependent and emotional than men and chivalrously are being regarded more as erring and misguided children who have strayed from their appointed ways than as adults who are as capable of disruptions as any male. Chivalry, however, comes in two dimensions. While the system may exhibit undue leniency, especially on the police level, it may more than make up for this by meting out more punitive institutional dispositions. In length of sentences, females are often treated more severely than their male counterparts. 90/ There have been several attacks made on courts for upholding longer sentences for females on the grounds that women constitute a reasonable class for differential treatment. The rationale behind such discrimination is that the female, by virtue of her unique physiological and psychological make-up, is more amenable and responsive to reforms, which according to this view requires that she be confined for greater periods of time than her male counterpart. 91/

105. Typically, the size of the institutionalized female population and the requirement of separate facilities have meant that the per capita allotment of total prison facilities cannot be utilized for the treatment of female offenders as efficiently as it is for male offenders. 92/ In many countries where prison lodging is crowded, females of all ages and who have committed all types of offences have been housed together. In addition, few provisions have been made for vocational training or recreation; understaffing has necessitated more rigid rules, and visiting privileges have been restricted. 93/

106. One way to handle the legal and financial impasse created by the problems described above is to reduce the number of prisoners. Given the fact that most female prisoners are at present serving short sentences and that rehabilitative efforts are wasted on such inmates, cost-benefit analysis suggests that, especially for women, a reduction of the number of short-term prisoners would substantially improve therapeutic efforts directed at a smaller, more needy, long-term segment of the prison population. For short-term female offenders, efforts should be made to replace impersonal institutions with small community-based treatment centres.

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90/ Government of Japan, op. cit.; and Government of India, Prisoners in Perspective (Delhi, 1971).

91/ Freda Adler, ed., Sisters in Crime (New York, McGraw-Hill, 1975).

92/ Linda R. Singer, "Women and the correctional process", ibid., pp. 295-308.

93/ William Nagel, The New Red Barn (New York, Walker and Co., 1973), pp. 31, 117.

107. In many sectors of the world, declining fertility rates and increasing life expectancies mean that child-bearing and child-rearing are no longer lifelong duties for women. As women now seek more opportunities in non-domestic spheres, a careful monitoring of the labour market should lead to projections of vocational needs, to the establishment of more relevant training programmes, to shorter working hours and to more day-care centres to serve those women who are still raising children yet desire to work and contribute to the family income. Most importantly, crime prevention measures directed towards women should be undertaken in a comprehensive manner. These measures may be similar to those in existence in the socialist countries, where many governmental and voluntary bodies, such as cultural committees, youth-care committees, committees for youth affairs, children's rooms, and parents' house and school committees, provide a wide range of diversions for women. These activities figure in the reduction of female crime by providing stimulating and otherwise meaningful activities.

108. Attention should be focused on the benefits of utilizing the services of qualified females at all levels in the criminal justice system. There is already significant evidence to show that women can perform most functions as effectively as men, and some functions even more effectively. In many cases, without the traditional influences, a woman may often be more effective than her male counterpart in handling the growing numbers of women who are coming into the system as offenders.

109. In addition to the difficulties inherent in tabulating a phenomenon whose definition varies from country to country, official statistics are often records of the activities of officials and may describe the behaviour of officials more accurately than the behaviour of the criminal. This is particularly important in assessing the nature and scope of female crime, because there is evidence to indicate that such offences have frequently been unreported, unrecorded, mislabelled and, in general, handled differently throughout the adjudication process. For future planning it is essential to have adequate data for trend analyses. These data should at the very least clearly define offences, be recorded at a specified administrative level (police or court), be categorized by sex and age, and be presented as rates per population.

## IX. FORECAST OF CRIME AND CRIME CONTROL PROBLEMS

110. As the theme of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders is particularly concerned with the "challenge of the last quarter of the century", the working papers cannot be limited to a description of immediate challenges. All agenda items are therefore concerned with the tasks for the future, and the working paper on agenda item 9 "Economic and social consequences of crime: new challenges for research and planning", is indeed primarily concerned with the challenges of the next quarter of the century. With regard to the topic of agenda item 5, "Changes in forms and dimensions of criminality - transnational and national", it was thought important to use modern forecasting techniques in an effort to predict the directions which criminality may take during the next several decades and to determine what counter-measures might have to be deployed.

111. In attempting to forecast crime and crime control problems, one study divided the task into two principal areas of research. 94/ First, an examination was made of the more general issues in crime prevention and criminal justice which will confront people in their own countries. These issues include developments and projections which relate to problems within rather than between countries. Secondly, particular attention was given to those aspects of the projections which are of concern at an international level and are featured under the rubric of "transnational crime". Forecasting and projection techniques are still somewhat primitive, which is a cause for concern in itself. However, the Delphi method was used in this study as a basis for analysing future crime and crime control problems of national and transnational dimensions. The Delphi method attempts to forecast future qualitative change. The method is typified by subjective estimation of probabilities by an iterative process, which requires no external data because it is usually applied in areas where data do not exist. Since events of a sufficiently similar kind have not taken place in the past, direct trend analysis cannot be performed. 95/

112. One questionnaire was distributed to a sample of experts who were in the criminal justice field and were geographically representative. It dealt specifically with the area of technological innovation and the potential of such developments for criminal activities. The experts took somewhat different views

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94/ See Leslie T. Wilkins, "Crime and crime control: the next 10 years", preliminary paper for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. In this context see also Leslie T. Wilkins, "Crime in the world of 1990", Futures, September 1970; and "Crime and criminal justice at the turn of the century", The Annals of the American Academy of Political and Social Science, vol. 408 (Philadelphia, July 1973), pp. 13-29.

95/ For a more detailed description of the Delphi method, see George Chadwick, A System's View of Planning (New York, Pergamon Press, 1971), pp. 183-184.

of the probability of some of the projected conditions which had been extracted from the literature. The projected categories within which the conditions would occur are listed according to their relative importance, as follows:

- (a) Labour and employment;
- (b) Computer technology;
- (c) Values and social institutions;
- (d) Nuclear technology;
- (e) Medicine and surgery;
- (f) Environmental factors.

113. The first and most obvious result of the analysis of the responses was that criminal justice experts were ready to reject projections of technological change in areas outside their own sphere of expertise. It seems to follow that they are more likely to be "caught by surprise" in relation to those kinds of development. There was also a noticeable tendency to give low ratings to estimates of the probability of undesirable events. In addition, there were indications in the responses of a general need for criminal justice agencies and personnel to seek advice in sectors of knowledge which superficially might seem to have low relevance to issues of social control. There also seemed to be a strong tendency for criminal justice planners to consider "more of the same" as the best and safest strategy for action.

114. In another questionnaire distributed to another group of experts, the intention was to gather information on probable changes in the criminal justice machinery itself. This panel consisted mainly of academic faculty in criminal justice schools, law schools and similar fields in the United States of America. Their views on probable changes relate to practices within the United States of America, but these techniques of crime control may also be relevant for other developed countries.

115. These experts suggested that more emphasis would be placed on and greater success would ensue from changes in crime prevention methods rather than from changes in the area of processing offenders. This would be achieved through technological developments in the criminal justice machinery itself rather than in related fields. The majority of experts agreed that the main control of crime today is effected by social institutions and agencies other than those specifically concerned with crime control. However, very little change was expected to occur in the kind of impact which external social institutions or agencies have upon crime control.

116. The techniques and skills of criminals were expected to improve, but the experts felt that law enforcement agencies would meet the challenge. However, the experts agreed that correctional agencies would not be as successful as their law enforcement counterparts in this respect. It was also agreed that crimes against

property, more than any other type of crime, may be expected to increase sharply as a result of technological change, although the rate of change was not seen as very large. High priority was given to the future incidence of computer-related crime.

117. The experts suggested that three classes of activity would be added to the criminal code: environmental pollution, consumer frauds and related business offences, and possession of guns. The main items suggested as likely to be decriminalized were: drunkenness, homosexuality, gambling and the use or possession of marijuana.

118. Forecasting in the area of transnational crime initially focused on a suitable definition of transnational crime. A "modified Delphi" approach was used in which a questionnaire was distributed to a sample of experts from a variety of countries selected from five continents. The questionnaire suggested a definition and the experts criticized or amended it. In distinguishing transnational from international crime, any proposed definition would differentiate actions involving nation States from those involving persons or corporate bodies. Transnational crime might then comprise "ordinary crimes" which are crimes defined by national codes, but which involve (in terms of either the offender or the victim) nationals of different countries, or situations in which the crime takes place over several States.

119. The possibility of various forms of compacts to deal with specific issues was seen as desirable and worthy of further discussion. Co-operation between contiguous countries or between countries having a common culture or political tradition was suggested by the panel as a starting point in dealing with transnational crimes.

120. Few, if any, of the problems related to transnational crime are the central concern of any one governmental department within any of the countries studied. This is reflected in the following list of priority items selected by the international panel:

- (a) Water pollution, particularly ocean dumping;
- (b) Sale of harmful products, including drugs;
- (c) Theft of cultural objects, including archaeological finds;
- (d) Air pollution;
- (e) Kidnapping;
- (f) Currency crimes;
- (g) Crimes related to fishing and the seas (food supplies);
- (h) Evasion of taxes and exchange regulations.

121. It was thus seen as necessary to establish some machinery for the exchange of information as to possible future conditions which will have multidisciplinary and multiadministrative impact. In particular, such information should be included among the materials for the education and training of those responsible for the criminal justice system.

Annex

SELECTED INTERNATIONAL CONVENTIONS, AGREEMENTS  
AND DOCUMENTS ON TERRORISM

- International Civil Aviation Organization. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Montreal, 23 September 1971.
- International Civil Aviation Organization. Convention for the Suppression of Unlawful Seizure of Aircraft. The Hague, 16 December 1970.
- International Civil Aviation Organization. Convention on Offenses and Certain Other Acts Committed on Board Aircraft. Tokyo, 14 September 1963.  
United Nations. Treaty series, v. 704, p. 219.
- International Civil Aviation Organization. Working paper presented by the delegation of the United States of America. A convention regarding the safety and security of international civil air transport services. Documents of the Legal Committee, v. 2, working draft No. 776. London, September-October 1970. (8936-LC/164-2)
- League of Nations. Convention for the Creation of an International Criminal Court. Geneva, 16 November 1937. (Ser. L.o.N. C.94.M 47.1938.V, pp. 18-33)
- League of Nations. Convention for the Prevention and Punishment of Terrorism. Geneva, 16 November 1937. (Ser. L.o.N. C.94/M 47.1938.V, pp. 5-17)
- Organization of American States. Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that Are of International Significance. Washington, D.C., Pan American Union, 2 February 1971. (Serie sobre tratados 37)
- United Nations. Ad Hoc Committee on International Terrorism, Observations of States submitted in accordance with General Assembly resolution 3034 (XXVII). Analytical study prepared by the Secretary-General. June 1973. (A/AC.160/1 and Add.1, and A/AC.160/2)
- United Nations. International Law Commission. Draft articles on the prevention and punishment of crimes against diplomatic agents and other internationally protected persons. Chap. III B of the report of the International Law Commission on the work of its twenty-fourth session, 2 May-7 July 1972. (A/8710/Rev.1: Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 10)  
Report also contains in an annex observations of Member States on the question of the protection and inviolability of diplomatic agents etc.
- United Nations. International Law Commission. Question of the protection and inviolability of diplomatic agents and other persons entitled to special protection under international law. (A/CN.4/L.182)

United Nations. General Assembly. Aerial hijacking or interference with civil air travel. Resolution 2645 (XXV), 25 November 1970.

United Nations. General Assembly. Convention on the Prevention and Punishment of Crime against Internationally Protected Persons, including Diplomatic Agents. Resolution 3166 (XXVIII), 14 December 1973.

United Nations. General Assembly. Draft code of offences against the peace and security of mankind. (A/2693: Official Records of the General Assembly, Ninth Session, Supplement No. 9, chap. III)

United Nations. General Assembly. Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes. Resolution 3034 (XXVII), 18 December 1972.

United Nations. General Assembly. Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes. Draft convention for the prevention and punishment of certain acts of international terrorism. (A/C.6/L.850)

United Nations. General Assembly. Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes. Report of the Chairman of the Sixth Committee on his consultations with regard to the question of international terrorism, undertaken in pursuance of the decision taken by the Committee on 27 September 1972. (A/C.6/L.866)

United Nations. General Assembly. Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes. Report of the Sixth Committee. (A/8969)



United Nations. General Assembly. Measures to prevent international terrorism which endangers or takes human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes. Study prepared by the Secretariat in accordance with the decision taken by the Sixth Committee at its 1314th meeting, on 27 September 1972. (A/C.6/418, and Add.1 and Corr.2)

United Nations. Headquarters Library. A select bibliography on aerial piracy. Occasional reading list No. 6, 20 November 1972.

United Nations. Headquarters Library. A select bibliography on international terrorism. Occasional reading list No. 5/Rev.1, 25 October 1972.

United Nations. Vienna Convention on Diplomatic Relations, 18 April 1961.  
United Nations. Treaty series, v. 500, p. 95.

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