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International cooperation in combating transnational crime

Strengthening international cooperation in combating terrorism

ASIA CRIME PREVENTION FOUNDATION (ACPF) *

**CRIMINAL JUSTICE CHALLENGES IN THE AGE OF GLOBALIZATION –
REGIONAL STRATEGIES FOR COMBATING TERRORISM, CORRUPTION
AND TRANSNATIONAL ORGANISED CRIME IN THE CONTEXT OF
DEVELOPMENT AND POVERTY ALLEVIATION.**

Report of the Working Group of Experts

New Delhi, 10 - 12 February 2002

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Executive Summary

The Beijing Declaration, adopted by the eighth ACPF World Conference on Crime Prevention and Criminal Justice, provided for the establishment of working groups with a view to following up the recommendations and commitments made during the World Conference regarding, in particular, the role of criminal justice in the alleviation of extreme poverty and combating corruption. The tragic events of 11 September 2001 in the United States and the terrorist attack on the Parliament of India prompted the Foundation to organize, as a matter of priority, a working group of experts to consider the interrelated issues of corruption, terrorism, transnational organized crime and poverty.

At the invitation of the Asia Crime Prevention Foundation, the Working Group of Experts met in New Delhi in order to tailor a strategic plan of action to meet the urgent challenges facing the criminal justice system in the Asia and Pacific region. The Group considered the patterns, extent, trends, severity, interfaces and impact of the major crime problems facing countries of the region, with primary focus on terrorism, corruption and transnational organized crime.

The Group analysed their context, including the effects of globalization, interdependence, technological progress, economic downturn and growing inequality between and within countries, exacerbating the extreme poverty of vulnerable groups and their marginalization, contributing to conflicts and instability, and urged the adoption of effective strategies to mitigate them. The Group called for the formulation of comprehensive, coherent and consistent criminal policies to guide integrated efficient and humane "state of the art" criminal justice systems that would serve as agents of positive change, and promote more equitable and sustainable development, with emphasis on restorative justice. The Group also called for the ratification of the United Nations conventions (a) against Transnational Organized Crime, and its protocols on trafficking in persons, smuggling of migrants and manufacture and trafficking in firearms; (b) against terrorism and aspects thereof; and (c) against corruption, which is being elaborated. Emphasis was placed on poverty alleviation by supporting global action against it. It was felt that, only poverty eradication, or at least, mitigation, could provide a lasting solution to major problems, such as terrorism, corruption and organized crime, which thrive on misery, deprivation and hopelessness.

Chapter I.

Organization of the Meeting

The Working Group of Experts held its Meeting at the United Service Institute, New Delhi, from 10 to 12 February 2002.

Opening of the Meeting

The Chairman of the Board of Directors of ACPF, Mr. Minoru Shikita, opened the Meeting and made an introductory statement. He was followed by Mr. Kazuo Kodama, Minister, Embassy of Japan in India, who gave a welcoming address. A congratulatory statement, felicitating the ACPF, **Indian and Japanese** hosts on the initiative, was made by the Secretary of the Fifth Committee of UN General Assembly, Mr. Joseph V. Acakpo-Satchivi. The former Chief Justice of India, Mr. A.M. Ahmadi, delivered an opening address.

Agenda

On the proposal of the Chairman of the Board of Directors of the ACPF, the agenda for the Meeting, entitled "Criminal justice challenges in the age of globalization – regional strategies for combating terrorism, corruption and transnational organized crime in the context of development and poverty alleviation", was adopted by acclamation.

Attendance

At the invitation of the ACPF, experts from Bangladesh, China, Hong Kong, India, Japan, Nepal, Papua New Guinea, the Philippines, **Singapore**, Sri Lanka and Thailand, as well as United Nations Officials and NGO representatives participated in the Working Group.

Election of Officers

The following Officers were elected by acclamation:

Mr. P. K.Mehta (India) as Chairman
Mr. Calibo (Phillipines) as Co-Chairman
Mr. Chronox Manek (Papua New Guinea) as Co-Chairman
Mr. D.P.Kumarasingha (Sri Lanka) as Rapporteur-General
Messrs. Chandra Mohan (Singapore) and M. Pandd (Nepal) as Friends of the
Rapporteur- General

Chapter II. Substantive discussion

Topic 1: Combating Crime in the Age of Globalization

The Group began its substantive work by taking up the first topic on its agenda, entitled "Combating Crime in the Age of Globalization". The first Speaker, Mr. P. S.Bawa, former Director-General of the Police (India) discussed how the advances in knowledge have shaped the world order. Globalization with the aid of technology has moved ideas, capital, knowledge, people and monies across the world. The impact of globalization has resulted in new phenomena. These include a new brand of criminal: the terrorist, the mafia and the violent fundamentalist; the creation of a risk society with a desire to make money at any cost, without regard to ethical concerns, and a challenge to the authority of the State. The criminal justice system, however, has not adequately responded to the threats posed by terrorism, organized crime and fundamentalist violence.

According to Mr. Bawa, the biggest challenge is the lack of faith in the criminal justice system. The task ahead is, therefore, to revive faith in the system. He made a number of proposals on how to bring this about:

- (1) Equipping the criminal justice system with state-of-the-art technology to reduce delays, systematize operations and increase surveillance, among other things.
- (2) Widening the scope of the criminal justice system by including tribunals and other executive authorities.
- (3) Ensuring proper interaction within the criminal justice system to increase understanding and co-operation.
- (4) Better collaboration within the international community, especially assistance to the less developed countries by the developed ones.
- (5) Transparency in governance. Every nation must acknowledge the problem of bureaucratic corruption.
- (6) Strengthening of civil society by NGOs
- (7) Managing diasporas. Minorities must feel they are being represented by the nation.

The presentation was followed by a spirited discussion among the experts. Mr. Ian McWalters (Hong Kong) spoke of the need for closer co-operation among nations in combating crime in the age of globalization. He said that the concept of all of us being "our brother's keepers" was enhanced by the terrorist acts of 11 September. He would like to see the same level of international co-operation in all criminal matters. There was a need for more extradition agreements and mutual legal assistance.

Mr. Slawomir Redo (UN Centre for International Crime Prevention) stressed the need for consensus not only on “what” but also on “how” to achieve better co-operation. He gave the example of how only a few of the countries which have ratified the 1988 UN convention against illicit trafficking in narcotic drugs, had designated a “central authority” to facilitate mutual legal assistance.

Mr. D. P. Kumarasingha (Sri Lanka) next spoke of the problems facing Sri Lanka at present. Resources available in the country were insufficient to deal with such forms of organized crime as drug trafficking, money laundering, smuggling of arms and ammunition, trafficking in women and children, and terrorism. In dealing with cyber-crime, he said the lack of adequately trained investigators, prosecutors and judges was hampering the criminal justice system.

Mr. Shirajul Islam (Bangladesh) expressed agreement with the previous speakers and stated that the components of the criminal justice system should be increased to include civic bodies, which could be effective in bringing about reforms. This had happened in Bangladesh in respect of environmental projects.

Many experts then spoke of the need to introduce changes to the electoral system to ensure quality in political leadership. This was especially important to meet the increasing challenges of globalization. The lack of controls on election expenditures, for example, in Bangladesh, India and Sri Lanka was perceived as a problem of having the right candidates elected without encouraging corrupt practices. There was further discussion as to whether the imposition of a ceiling on election expenditures, auditing of accounts of candidates, records of donors and recipients of election campaign funds, and State funding of election campaigns (as is done in Germany) would assist in this regard. It was also suggested that candidates with previous convictions ought to be disqualified from holding political office, and that trials of politicians should be expedited to keep out the corrupt and the dishonest from the legislature. Lawbreakers, it was generally accepted, ought not to be lawmakers.

Finally, Mr. Chronox Manek (Papua New Guinea) spoke of the role of the Ombudsman in his country in ensuring probity of conduct in government. The Ombudsman is mandated to inquire into allegations of corruption and other forms of misconduct by holders of public office. This may result in a prosecution or reference to a tribunal which could dismiss a civil servant or bar a political office-holder from holding office for 3 years.

Topic 2. Combating Corruption and Terrorism in the Context of Sustainable Development and Poverty Alleviation

For its consideration of that topic, the Working Group heard an introductory presentation of the paper prepared by Professor Mr. R. B. Jain, entitled "Sustainable Development and Poverty Alleviation". He stated that in some societies the demands on the State by unorganized and organized groups have grown to such an extent that the State is said to have become "incapable of governing", despite all the resources and tools that it may be able to command. He highlighted the need for understanding the relationship between corruption and good governance. Corruption was commonly defined as the abuse of public office for private gain. Governance was a broader concept, defined as the exercise of authority through formal and informal tradition and institutions for the common good. He pointed out six different elements by which good governance could be promoted: (i) popular voice and accountability, which included civil liberties and freedom of the press (ii) political stability (iii) government effectiveness, which included the quality of policy-making and public service delivery (iv) the quality of regulations (v) the rule of law, to include protection of property rights and an independent judiciary, and (vi) control of corruption, which was one of the most intertwined elements of governance. But governance was more than fighting corruption. He suggested three vital elements for improving governance as being:

- i) Knowledge, with rigorous data and empirical analysis, including country diagnostics and dissemination, utilizing the latest information technology tools.
- ii) Leadership in the political arena the civil society, and in the international sphere, and
- iii) Collective action via systematic participatory and consensus-building approaches to key stakeholder in society.

He further highlighted the fact that in the age of globalization and free market economy, corporate governance was going to be a crucial factor in efforts to restructure governing institutions. He urged a change of the role of the State within the global transformation.

Referring to the Brundtland Report of 1987, he noted that the central rationale for sustainable development had been to increase people's standard of living, avoiding uncompensated future costs. He further urged strategies that would help nations to strive for corruption-free sustainable development. He suggested the following fundamental ways of combating corruption for sustainable development:

- i) reducing opportunities and incentives for corrupt behaviour and increasing the sense of accountability among public officers, and
- ii) effective implementation of anti-corruption measures, which should be consistent with the phasing of a time-table for speedy investigation and conviction; strong

political commitment to implementing the strategies and enforcing anti-corruption measures, and people's active participation from below in the enforcement of administrative, legal and judicial measures, thus mobilizing the public against corruption in public life. In addition to the above conditions, he urged the creation of a national coordinating body for monitoring and follow-up of a strategy, the existence of a high-powered independent prosecuting body, the setting up of special courts for trying corruption cases, reforming electoral laws and economic regulations, legislation to limit the number of ministries and departments, and providing specialized technical assistance to anti-corruption agencies. He also urged international co-operation, as well as the partnership of government and civil society, in combatting corruption.

Mr. P. P. Sangal (India) then presented his paper, entitled "Combat Poverty Seriously to Combat Terrorism, Corruption and Transnational Organized Crime: Challenges for the Criminal Justice System: the Indian Experience". He stated that the challenge of terrorism, whether domestic or cross-border, could only be met by combating the menace of abject poverty. He said that uplifting of the poor has been the major objective of Indian development plans. But while poverty ratios have declined in the country, the total number of people below the poverty line has remained almost the same because of the population increase. He urged the reduction of ethical poverty along with economic poverty. He further said that empowering the poor was essential for their development so that they could effectively participate in governance. In his view poverty was the real problem responsible for the acts of terrorism rather than other factors. Framing and invoking legislation and banning terrorist organizations was just like treating the symptoms and not the disease, which was extreme poverty. Hence, he urged all national governments to strengthen their efforts for poverty alleviation because it was also the major cause of terrorism. Noting the linkage between the criminal justice system and the alleviation of extreme poverty, he suggested that a sound criminal justice system had to ensure the following:

i) The availability of legal aid to the poor should be assured.

ii) As the criminal justice system was based on the principle of fairness, no differentiation should be made between the rich and the poor in the course of administering justice.

iii) The transparency of action taken should be maintained.

iv) Appropriate legal reforms should be introduced and carried out.

v) Law enforcement agencies should be strengthened and made accountable.

vi) White-collar crimes should be firmly dealt with.

vii) Provision of restorative/rehabilitation schemes for the poor should be assured.

He said that poverty alleviation by empowerment of the poor was the key in combatting the present dangerous forms of terrorism. He suggested that the following measures should be taken on a war footing,

- i) ban all terrorist outfits
- ii) stop funding them
- iii) stop arming them
- iv) stop harbouring them
- v) stop their movements across national borders.

He also urged regional and global co-operation, as well as building public awareness, to achieve this laudable task.

Answering the question raised by Mr. V. V. Kshetri (Nepal) about the need for a meritocratic service-oriented public administration, Mr. Sanghal answered that an effective strategy for improving governance required a system of checks and balances that restrained arbitrary action and harassment by politicians, and an end to delays in the administration of justice and other processes. He urged observance of the right to information and a responsible system of administration, and noted that secrecy in matters of governance was the basic reason for corruption.

Mr. Kshetri pointed out that, with a view to preventing corruption, provision has been made in the Constitution of the Kingdom of Nepal for the appointment of heads and members of the constitutional bodies by the Independent Constitutional Council, headed by the Prime Minister and comprising the Chief Justice, the Speaker, the Chairmen of both houses of Parliament and the Leader of the Opposition as members.

Mr. Redo observed that corruption was rife in many places, and informed the Group that the United Nations was engaged in work in the field of corruption control. He asked for clarification from Mr. Sangal on how the Hawala system was working and about its legitimacy.

Mr. Bernado R. Calibo (Philippines) expressed his view that it was not the lack of money but of proper management of money that was necessary for the alleviation of poverty. He stressed the proactive role of NGO's and noted that NGO's were said to be the 5th Pillar of the criminal justice system in the Philippines.

Mr. Manek stated that the single biggest problem facing Papua New Guinea was the absence of the proper, transparent and equitable distribution of resources and the creation of suitable opportunities for the populace. He also expressed his concern about the trend of increasing corruption and escalating poverty in the country. He spoke about the Ombudsman Commission of Papua New Guinea, which has the mandate to carry out sudden surprise investigations of political leaders and members of the civil service. He urged educational awareness programmes for the meaningful utilization of the criminal justice system.

Mr. Islam informed the meeting that 30 Million people were living on less than a dollar a day in his country. He noted a direct relationship between poverty and crime ,and suggested that legislative measures, as well as social awareness, were very important in resolving the problem.

Mrs. Jolanta Redo shared her experience of Central Asia wherein ethnic conflict, corruption and terrorism were rampant. She cited examples of corruption in fields such as telecommunications, electricity, business licences, etc. She remarked that it was very difficult to find a solution to such refractory problems.

Mr. Hira Singh (India), recalling the ACPF Delhi Declaration, as well as the Beijing Declaration, urged that concrete steps should to be taken by the criminal justice system in the following three broad areas to alleviate extreme poverty:

- i) Bringing about reform within the system: to ensure equality for the poor, reforms in the bail system - for no poor person should be behind bars for lack of money, and objective use of non-institutional treatment of offenders.
- ii) Protection of the poor through the criminal justice system, with new laws enacted for the protection of the poor and the scheduled castes and tribes in India.
- iii) Attention should be focused on those who use the poor as instruments of crime.

He urged the formulation of guidelines on the specific role to be played by the criminal justice system in poverty alleviation.

Mr. Kshetri expressed his view that in spite of the fact that the Government had given top priority in its development plans to the alleviation of poverty, the outcome was not satisfactory. In his opinion, poverty alleviation could not be accomplished by economic measures alone: a pro-active role of the criminal justice system was equally important. He emphasized the close relationship between human development, poverty alleviation and of good governance. Corruption was the basic reason for the low success rate of poverty alleviation efforts of the nation. He also noted the relationship between the extent of poverty and the situation of terrorism in the country.

Mr. Ye Feng (People's Republic of China) detailed the steps taken by China for sustainable development, especially after becoming a member of the WTO. He also dwelt on the revision of the laws and Government in China.

The point was made that corruption existed everywhere in the world, including the USA. He cited greed and poverty as the two basic reasons for corruption. He further noted that poverty had negative effects on diverse matters, including the environment. As poverty alleviation was an important area and as a contribution to the UN efforts in alleviating poverty, it was suggested that this subject be included on the agenda of the forthcoming world conference of the ACPF.

Mr. Redo, supporting this view, said that poverty alleviation was a priority of the UN system, and since the ACPF was the only organization working on poverty alleviation through criminal justice, it should work cross-sectorally. He urged a concrete and constructive approach and suggested that objective steps should be identified so that the poverty alleviation programme could be implemented.

Corruption

On the second day of the Expert Group Meeting, Mr. Sankar Sen presented a paper on "The Corruption Trap". He noted that corruption violated human rights and that it occurred in almost all countries of the world, so that every government had to deal with this problem. Referring to the latest Transparency International report, he said that, with the passage of time, the corruption level in India had increased substantially. Based on the UNDP Human Development Report, he depicted certain characteristic features of corruption in India, as follows:

- i) Corruption occurs upstream and not downstream.
- ii) Corruption has wings and not wheels (most of the corrupt gains are immediately smuggled abroad).
- iii) Corruption in India and other Asian Countries often leads to promotion and not prison (the big fish are rarely caught).
- iv) Corruption can have a very destructive impact, and combating corruption is thus not only a matter of punishing dishonest politicians but also of saving human lives.
- v) Corruption increases injustice.

Citing Robert Kliggaard, Mr. Sen explained the corruption equation as monopoly power plus discretion minus accountability and low government salaries. He also highlighted the fact that too many laws and rules, and the various formalities to be followed, perpetuate corruption and give opportunities for corrupt practices among government officials. Referring to the argument put forth by some writers, he said that corruption and bribery were often seen as necessary lubricants for a cumbersome system of administration. With regard to political corruption, he expressed the view that the corrupt should be convicted and punished, but that in reality they hold high positions thus remaining untouchable.

Mr. Sen proposed a series of long-range strategies and short-term measures to deal with the menace of corruption. Referring to political corruption as the mother of all types of corruption, he urged the revision of electoral law to ensure that corrupt candidates could not contest elections. He also urged effective legislation regarding the right to information to help citizens combat corruption. He also highlighted the international double-standard in dealing with the corruption problem, as many European countries have declared bribery illegal when paid to their own nationals, but payments to

foreigners are often regarded as necessary for business and treated as tax deductible payments. He concluded his presentation saying that corrupt practices are anti-national and hamper investment in development activities. To combat it a strong political will was required.

Mr. Sangal, taking part in the discussion, said that the poor are affected more by corrupt activities. He also urged that the right to information should be guaranteed to the poor. He expressed the need for empowering the poor by providing them with education and health facilities. Mr. Kshetri expressed his concern about the problem of misuse of money provided to the members of Parliament to conduct development activities in their constituencies.

Mr. Calibo shared the experiences of one of the NGOs of his country, which is efficiently monitoring and filing corruption cases. The Expert from Thailand spoke about a case against a corrupt politician elected with a high number of votes.

Mr. Manek highlighted the need for an honest and accountable bureaucracy, which can fight against corruption.

Mr. Islam said that corruption and criminal acts occurred in the country since there was no cordial relationship between the police and the judiciary. The police enjoyed too much power and ordinary people were afraid to complain against their corrupt acts.

Mr. C. Walters said that the law alone would not provide the answer to the eradication of poverty, although it can be helpful to some extent. The public sector assisted the private sector in its corrupt practices in business. So, corruption in the private sector must also be checked. He emphasized that people should keep themselves well-informed of the activities of their politicians and about development projects. The NGOs should come forward to educate the people in combating corruption and promoting good governance.

Mr. Ye Feng highlighted the measures taken in his country to combat corruption. He said that China dealt with about 50,000 corruption cases every year. He exposed some 22 facets of corruption in his country, and said that corruption was on the increase since 1979, when China adopted its opening-up policy. Despite having capital punishment for corruption and bribery, even high-ranking officials have been found involved in corruption. The country has launched anti-corruption campaigns. However, cases of corruption in the judiciary are also on the increase.

Mr. Ye Feng suggested some anti-corruption measures that could be adopted, as follows: joint efforts by political parties and the government with a common working mechanism; surveillance in each government department; not to allow any members of the armed forces, police or other government officials to engage in commercial transactions; reforms in administrative mechanisms, etc.

Mr. Redo expressed his view that nothing much could be done by legislative means only. Operational and practical ways and approaches were needed to control corruption. The experience of a big country like China was very important, and he asked the Chinese delegate to suggest the best practices which could be employed in Asian and other countries. He also suggested the topic of "corruption" for the forthcoming ACPF world conference in September 2002.

Mr. Kshetri wanted to know whether the basic reason for corruption was the political system or something else. In replying to his question, the Chinese delegate said that the political system may be one factor, but that economic and other factors were also important. He held the view that corruption was a complex phenomenon and the outcome of various interfacing factors.

Mr. Islam spoke about the rampant corruption in his country. He said that one of the corruption-prone areas in Bangladesh were Bank loans. Creditors never paid the loans. He urged that honest persons in each organization should be recognized and that some sort of incentives should be given to them so that others would also be motivated to be honest. He stressed the need for a strong campaign against corruption by civil society.

Mr. Sangal added computer crime (a transnational organized crime) to the 22 instances of corruption described by the Chinese delegate.

Mr. Kumarsingha said that corruption in Sri Lanka ran from top to bottom. The corruption commission becomes helpless in cases against politicians and high-ranking public officers wielding political clout. He further said that corruption got into one's life as early as school admission, when parents resorted to offering various forms of illegal gratification and other malpractices to get their children admitted to schools of their preference. In that way, children grew up in a culture of corruption and institutionalized corruption naturally, whether they would be in the bureaucracy or in politics in the future. He explained the grave situation of corruption, stating that most of the politicians were involved in corrupt activities. Even criminals got a high percentage of votes in the elections. He highlighted the effect of such corrupt practices on the country, citing the examples of the power crisis and the running of the Petroleum Corporation at a loss. He explained the situation as the vicious circle of corruption. He further noted that the public outcry was such that five independent commissions were going to be established, respectively, on elections, police, public service and the media.

The last speaker of the day, Mr. N. Vittal, Head of the Central Vigilance Commissioner of India, presented his paper on corruption. According to him, globalization has four elements, namely, physical capital, financial capital, technology and labour moving across borders. He explained how the South-East Asian economies collapsed in mid-1997 in the absence of proper corporate governance, which showed how even the so-called miraculously growing tiger economies of South-East Asia were not immune from the disastrous consequences of corruption and crony capitalism. He further highlighted the essence of good corporate governance as transparency and accountability to stakeholders.

He explained how corruption was harmful in India: corruption is anti-national-transferring money to anti-national activities through 'Hawala' (underground banking) and money-laundering; corruption is anti-poor; and corruption is anti-economic development. He said that the root cause of very poor governance in India lies in corruption. Analysing the causes of corruption, he further highlighted the following causes of corruption in India:

- i) The way the present democratic system is operating.
- ii) Political corruption: donations and collection of money for elections.
- iii) Bureaucratic corruption.

During the presentation, he also prescribed some measures for combating corruption, as follows:

- i) Simplification of rules and procedures.
- ii) Ensuring transparency and creating public awareness.
- iii) Information dissemination through the internet.
- iv) Monitoring acts of corruption.
- v) Entertaining suggestions from citizens on how the system can be suitably modified.
- vi) An effective system of punishment for cases of corruption.
- vii) Direct action against corruption through the judiciary, the Central Bureau of Investigation (CBI) and the media, etc.

Taking part in the discussion, the delegate from the Philippines inquired whether spiritual factors may be considered as helpful in the process of combating corruption.

Mr. Redo expressed his view that one of the challenges to the criminal justice system was money-laundering. He commented that it was interesting to find out how the terrorists responsible for the September 11 bombing of the Twin Towers came by the finances required for such a mission.

During the discussion, the importance of greater awareness, general public support for combating corruption and better implementation of laws was also emphasized.

Mr. Sangal said that the basic problem was that of implementation of anti-corruption measures for which a strong political will was needed. His question was, how this could be achieved?

Terrorism

Given the complex nature of terrorism, the Group devoted a full session to that tragic current issue. It heard a statement by Mr. S.K. Dutta, who was the former Director of the Central Bureau of Investigation of India. He dwelt briefly on the nature and extent of terrorist activities, and stated that each terrorist attack was more devastating than the previous ones, and that every attack was unique in nature. He said that recent attempts by the Al Qaeda Supremo were thwarted by the "war on terror" unleashed by the US-led coalition. However, he agreed that a lot remains to be done to eradicate the scourge of terrorism from the face of the earth.

He traced three phases of terrorism in Afghanistan between 1960 and 2001. The first phase, from 1960 to 1978, was characterized by hijackings and killings of individuals—largely known individuals. The second phase, from 1979 to 1989, was marked by legitimizing terrorism as a Jihad by the US-led secret coalition to fight against the Soviet troops in Afghanistan. The third phase commenced in 1989, after the withdrawal of the Soviet troops from Afghanistan. However, the sophisticated infrastructure developed by the US-led coalition remained to wage war against the USA, Israel, India, etc.

Attacks on super-powers were not taken seriously until the September 11th events in the United States, which shocked the world into a realization of the dangers that lay ahead.

He pointed out that regional and international terrorism depended on the support of sponsoring States, which provided training, infrastructure, instructors, arms and equipment.

Mr. Dutta said that there were 30 terrorist organizations operating in sixty countries under one command. Even as the "war on terror" continued, attacks were carried out.

Dealing with terrorist motivation, he said that before the breakdown of the Soviet Union, covert action was based on socialism or capitalism; after the collapse of the Soviet regime, religion became the new ideology. He then cited several examples of the fallout from the Afghanistan Jihad during the decade of 1979-89. He said that the Jihad movement started in India in 1989 and continued unabated.

However, the September 11 attacks changed the perception of the world powers. The war on Terror was launched and UN Security Council Resolution 1373 mandated each country to fight terrorism on all fronts.

Mr. Dutta made the point that terrorists cannot be equated with freedom fighters. After the collapse of colonialism in Africa, he contended that there was no need for freedom fighters in India, China, Russia, the Philippines or elsewhere. In democracies, questions are settled by way of consensus or general agreement.

Mr. Dutta also made the point that no State in the world can be a one-religion State. He conceded that every country would have religious minorities. The new era of democracy allows the growth of pluralism and tolerance, and the world should move in that direction. He expressed the view that a liberal democracy was the key to success against terrorism.

He suggested that terrorism should be fought on two fronts:

- a) The Military-Security level to eliminate or reduce violence
- b) The Politico-Psychological level to secure public support.

Mr. Dutta spelled out certain fundamentals to be observed, such as:

- a) A clear-cut policy against terrorism
- b) No concessions to appease terrorists
- c) Substantial security and military operations
- d) Effective countering of terrorist propaganda
- e) Sustained economic and welfare programmes
- f) Maintaining good governance

In addition, adequate legal measures should be taken for the relaxation of extradition and deportation procedures.

He also stated that various channels of funding, such as the "Hawala", should be stopped.

Mr. Dutta stressed the need to adopt a comprehensive anti-terrorism Convention, and to penalize States that do not conform, while emphasizing the need for the exchange of intelligence.

In reply to a question raised by Mr. Shikita, Mr. Dutta said that regional co-operation was already in place, but that international co-operation should be enhanced and encouraged. Mr. Mehta (India) pointed out that there was no proper definition of terrorism and suggested that the ninth ACPF World Congress should dwell on this aspect. Mr. Dutta said that violence in any form for whatever reason, could not be condoned, and that this would be a suitable basis to begin with. However, it should not delay action. An operational definition was an adequate basis, as in the case of cancer.

To a question by the Expert from Hong Kong, Mr. Dutta replied that Terrorism and organized crime were linked.

It was pointed out that a definition of terrorism was a must and what had happened in the United States and India might help in arriving at a definition acceptable to all. He believed that the signing and ratification of existing anti-terrorism conventions by all States would be the first step toward the eradication of that scourge in all its forms.

Transnational Organized Crime

Mr. Shikita reviewed recent United Nations efforts to combat transnational organized crime, with special reference to the United Nations Convention against it adopted by the General Assembly on 15 November 2000 and signed in Palermo, Italy in mid-December by more countries than any other United Nations convention. Since then further signatures and some ratifications have been obtained (e.g. Caribbean States). Regional meetings have also been held to promote the ratification process, including a seminar convened at UNAFEI in 2001, another in Iran, in late 2001 and in Kazakhstan for the Central Asian Republics. It was deemed most important to help countries in the formulation of national implementing legislation, development of the necessary infrastructure and capacity-building through training in this field, information-sharing, and other forms of collaboration, especially the adoption of effective regional and sub-regional strategies against transnational organized crime and its nefarious interfaces with other crime problems, such as corruption and terrorism. Only through joint action against a multi-headed hydra, which exacerbated existing problems of poverty and violence, and thwarted sustainable development, could real inroads be made.

The experts agreed on the need for strengthened regional action against transnational organized crime, and the prompt adoption of the UN Convention with its protocols. Assistance with their implementation by the region's States would be most welcome. There was also scope for the drafting of regional annotations to the Convention

Chapter III

Conclusions and recommendations

A. Terrorism

The Group fully shared the universal condemnation of terrorism and commitment to the eradication of the evils of terror. It agreed that in the age of globalization, also of terrorism, an international – indeed, a world-wide counter-strategy was obviously required, within which specific measures and areas could be identified. It was indispensable to:

- i) Promote a dialogue among civilizations, and an interfaith dialogue, rather than a clash between them.
- ii) Adopt educational measures, including religious teachings, preaching tolerance and peaceful coexistence, anti-violence curricula in schools and universities, with special modules on conflict resolution, using the media to foster a multicultural dialogue and ethical and moral values opposed to violence.
- iii) Consider alternative means for the redress of grievances (e.g. ombudsman), mediation and arbitration mechanisms, as well as public participation in decision-making and governance.
- iv) Strengthen the logistics of prevention, including checks on the movement of people and goods, especially across frontiers, and co-operation between customs and immigration authorities and transportation entities, with due regard to human rights and privacy considerations, including increased airport and airplane security, and other human and technological means of terrorism prevention and management, preventing also the theft of travel documents, identify theft, etc.
- v) Adopt suitable law enforcement measures and adequate information technologies, with effective database and intelligence-sharing as key elements in prevention. Multidisciplinary expertise and transborder cooperation were seen as essentials of anti-terrorism policing, evidence collection and criminal pursuit.

It was important to trace the money trail, including the origin of funds, money-laundering practices (reducing bank secrecy) seizure of assets, etc. It was also necessary to monitor and control preparatory activities (as with organized crime), such as terrorism training activities (training camps, “affinity” groups, etc.)

B. Corruption

The Group considered that the extent and trends of corruption and related problems of bribery, money laundering and need for repatriation of funds of illicit origin required effective action at the national and regional levels, including:

- i) Adherence to international or regional instruments against corruption and bribery, and regional input into the prospective United Nations Convention against Corruption.
- ii) The collation of "best practice and a roster of experts from the region.
- iii) An integrated multilevel approach, including public awareness campaigns and other educational and media efforts.
- iv) The promotion of better governance, with transparency and accountability, starting at the top, NGO and other watchdogs, and private sector adherence to codes of conduct and self-regulatory (or other) monitoring and quality control mechanisms.
- v) Training initiatives, especially regional annotations to and use of the United Nations anti-corruption training manual.
- vi) Evaluation of adequacy of the regional plan of action adopted in Seoul, and suggested improvements or alternative proposals.

C. Transnational organized crime

Following an intensive discussion on the extent, forms, trends and impact of transnational organized crime in countries of the region, the Group agreed that progress in ratifying the United Nations Convention against Transnational Organized Crime and its promotion required further regional seminars, the formulation of model legislation for the application of the Convention and its Protocols, the provision of technical assistance to help in the ratification process and systematic information-sharing to help law enforcement agencies and help pool intelligence.

It also required:

- i) Training, especially of trainers and experts in critical aspects, e.g. where expertise may be lacking, with joint inter-country teams tackling common problems.

ii) The applications of other United Nations instruments, e.g. for mutual cooperation in criminal matters, principles on independence of the judiciary, on the role of public prosecutors, etc.

iii) Development and implementation of regional action plan against transnational organized crime in the framework of the Convention, and of subregional initiatives, as appropriate, in a comprehensive perspective, geared toward sustainable development and poverty alleviation, and utilizing progress in science and technology as weapons against transnational organized crime.

iv) Developing and implementing a comprehensive strategy for one or more countries requiring urgent action and assistance in this and other respects with the help of international organizations, regional entities and other partners, such as national donors, NGOs and the business community.

OTHER MATTERS: Special assistance to Afghanistan

During the last round of discussions in the Working Group, the Chairman of the Board of Directors of ACPF, Mr. Shikita, raised the urgent issue of assistance to Afghanistan, now in the process of reconstruction and rehabilitation. Although the whole international community expressed deep concern at the current economic and social situation of that country, and stressed the need for urgent measures to provide financial, economic and other forms of assistance to Afghanistan, the Chairman of ACPF believed that the civil society, in particular the NGOs, in their respective areas of competence, should be able to offer their assistance to that country in dire need to recover from its disastrous situation. To that end, the Group proposed that ACPF participate in the design and implementation of pilot projects, such as:

- a) Instituting special protective and restorative measures for the victims (children, women), of conflict and warfare;
- b) Developing a coherent, effective and humane criminal justice system consistent with national and local customs and traditions, with emphasis on restorative justice, including mediation;
- c) Integrating the country in regional and subregional frameworks, including enhanced security and mutual assistance in criminal matters.
- d) Developing an effective crime prevention/criminal justice technical cooperation programme, with the assistance of UNAFEI, ACPF, CICP, UNDP, ESCAP and other international, regional, subregional and national governmental, as well as non-governmental and private sector partners.

e) Incorporating crime prevention and criminal justice elements in projected United Nations and other assistance.

It was agreed that the ACPF's familiarity and experience with the criminal justice systems of various countries of the region, its knowledge of best practices and its impressive record of regional and international cooperation, make it uniquely qualified to play a lead role also in this regard.