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REPORT OF THE COMMITTEE ON CRIME PREVENTION AND CONTROL ON ITS FOURTH SESSION

Held at United Nations Headquarters
from 21 June to 2 July 1976

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I. MATTERS CALLING FOR ACTION BY OR BROUGHT TO THE ATTENTION
OF LEGISLATIVE BODIES OF THE UNITED NATIONS

A. Draft resolutions

The Committee on Crime Prevention and Control requests the Commission for Social Development and, through it, the Economic and Social Council to consider the submission of the following draft resolution to the General Assembly for adoption:

Report of the Fifth United Nations Congress on the
Prevention of Crime and the Treatment of Offenders 1/

The General Assembly,

Being conscious of the seriousness of crime problems, which have assumed new forms and dimensions in many countries of the world and are transcending national boundaries,

Concerned about the high social and material cost which crime exacts and the impediment it presents to more wholesome development and a better quality of life for all,

Alarmed at the excesses of those crime control policies which, in certain countries, extend to torture and other abuses negating the basic principles of human rights and of criminal justice itself,

Reaffirming the need to develop effective and equitable policies for crime prevention and control consonant with fundamental human rights and a more rational use of available resources, both human and material,

Recognizing that the various forms of social control for the prevention of crime should take into account differences in traditions, economic and political structures, available resources and levels of development existing among member countries,

Recalling the responsibility assumed by the United Nations in the field of crime prevention in General Assembly resolution 415 (V) of 1 December 1950, the affirmation of United Nations leadership in crime prevention as reflected in Economic and Social Council resolutions 731 F (XXVIII) of 30 July 1959 and 830 D (XXXII) of 2 August 1961 and the call for strengthening international co-operation in crime prevention contained in General Assembly resolution 3021 (XXVII) of 18 December 1972,

Having considered the report of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva from

1/ For the related discussion, see chapter II below.

1 to 12 September 1975 ^{2/} and the recommendations of the Committee on Crime Prevention and Control at its fourth session,

1. Endorses the conclusions and recommendations of the Fifth Congress;

2. Requests that, in the light of the needs emphasized at the Fifth Congress, the Secretary-General implement to the fullest extent possible the conclusions and recommendations of the Congress, especially by:

(a) Giving them the widest possible circulation and dissemination and by stimulating international efforts to exchange experience and knowledge;

(b) Gathering and disseminating information concerning crime trends and criminal policies, with special emphasis on economic criminality and abuses of economic power, that have a detrimental effect on national economies and international trade, and developing strategies to deal with them;

(c) Providing, to Member States requesting them, advice and assistance for the re-evaluation of their criminal justice systems and for reassessment of the purposes as well as the effectiveness of such systems in relation to national and local requirements;

(d) Elaborating guidelines for the development and implementation of policies designed to make criminal justice systems more responsive to current social needs, to ensure the strict observance of fundamental human rights and to promote a more rational, consistent and integrated approach to the prevention of crime and the treatment of offenders;

(e) Fostering the exchange among countries of information relating to crime and to the functioning of the criminal justice systems and establishing an international system for a unified informational data base;

(f) Transmitting for appropriate action to the Economic and Social Council and its functional commissions, as well as to all other United Nations bodies and agencies concerned, those conclusions and recommendations of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders that fall within their spheres of competence;

3. Stresses the need for intensive co-operation and co-ordination in crime prevention and control between all the United Nations bodies concerned and especially the United Nations Development Programme, the various regional commissions and institutes and the specialized agencies;

4. Urges that technical assistance in crime prevention and control be made available to Governments, requesting it as a matter of urgency, and that high priority be given to the provision of regional and interregional technical

^{2/} United Nations publication, Sales No. E.76.IV.2.

advisory services and co-operation, particularly in the light of recent directives of the policy-making bodies of the United Nations focusing on regional and intercountry activities, and the proven success of this approach in crime prevention;

5. Invites Member States to give maximum attention and support to the conclusions and recommendations of the Fifth Congress and to secure their utmost effect on national laws and practices;

6. Draws the attention of Member States to the existence of the Social Defence Trust Fund, established in pursuance of Economic and Social Council resolution 1086 B (XXXIX) of 30 July 1965, and urges them to contribute to it.

7. Appeals to all Member States to support international action for crime prevention, especially through the sharing of costs of international meetings, seminars, workshops and training courses and by acting as hosts to regional research centres; and to furnish to the Secretary-General, in time for submission to the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at Sydney, Australia, in 1980, information relating to the measures taken to implement the recommendations and conclusions of the Fifth Congress;

8. Further requests the Secretary-General to take the necessary measures for the preparation of the Sixth Congress and to prepare a report on the information received under the preceding paragraph for submission to the Congress and to the General Assembly.

The Committee on Crime Prevention and Control recommends that the Commission for Social Development transmit the following draft resolution through the Economic and Social Council to the General Assembly for adoption:

Methods and ways likely to be most effective in preventing
crime and improving the treatment of offenders
/International Plan of Action/ 3/

The General Assembly,

Recalling its resolution 3021 (XXVII) of 18 December 1972, instructing the Committee on Crime Prevention and Control to consider the methods and ways likely to be most effective in preventing crime and improving the treatment of offenders, including recommendations on the measures most appropriate in such areas as law enforcement, judicial procedures and correctional practices,

Concerned about the prevailing trends of criminality in many countries of the world, which show the spread of emerging new forms of serious and organized crimes,

3/ For the related discussion, see chapter III below.

Having considered the report entitled "Methods and ways likely to be most effective in preventing crime and improving the treatment of offenders /International Plan of Action/", contained in annex IV to the report of the Committee on Crime Prevention and Control on its fourth session (E/CN.5/536-E/AC.57/30),

1. Approves the above-mentioned report as the basis for future United Nations activities directed towards the prevention and control of crime and delinquency and the treatment of offenders;

2. Invites States Members of the United Nations to make use of the report in formulating and implementing national crime prevention policies and strategies;

3. Calls on Member States, as well as international governmental and non-governmental organizations and specialized agencies, to collaborate fully with the United Nations Secretariat and with each other in implementing the International Plan of Action;

4. Urges all Member States, as well as international governmental and non-governmental organizations, to support the Social Defence Trust Fund and the international and regional institutes in crime prevention and control;

5. Recommends that the Secretary-General draw on the International Plan of Action in formulating proposals for future medium-term plans in crime prevention and criminal justice.

The Committee on Crime Prevention and Control recommends that the Commission for Social Development transmit the following draft resolution through the Economic and Social Council to the General Assembly for adoption:

Code of conduct for law enforcement officials 4/

The General Assembly,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recalling, in particular, the rights and freedom proclaimed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

Recalling the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in resolution 3452 (XXX) of 9 December 1975,

4/ Idem, chap. V below.

Recalling also paragraph 3 of resolution 3453 (XXX) of 9 December 1975, in which it requested the Committee on Crime Prevention and Control to elaborate a draft code of conduct for law enforcement officials,

Mindful that the nature of the functions of law enforcement and the manner in which these are exercised have a direct impact on the quality of life of individuals as well as of society as a whole,

Conscious of the difficult task which law enforcement officials are performing conscientiously and with dignity, in compliance with the principles of human rights,

Aware, nevertheless, of the potential of abuse which the exercise of such awesome duties entails,

Recognizing that the establishment of a code of conduct for law enforcement officials is only one of several important measures for providing the citizenry served by law enforcement officials with protection of all their rights and interests,

Aware that there are additional important principles and prerequisites for the humane performance of law enforcement functions, namely:

(a) That, like all agencies of the criminal justice system, every law enforcement agency should be representative of and responsive and accountable to the community as a whole,

(b) That the effective maintenance of ethical standards among law enforcement officials depends on the existence of a well conceived, popularly accepted and humane system of laws,

(c) That every law enforcement official is part of the criminal justice system, the aim of which is to prevent and control crime, and that the conduct of every functionary within the system has an impact on the entire system,

(d) That every law enforcement agency, in fulfilment of the first premise of every profession, should be held to the duty of disciplining itself in complete conformity with the principles and standards herein provided, and that the actions of law enforcement officials should be responsive to public scrutiny, whether exercised by a review board, a ministry, a procuracy, the judiciary, an ombudsman, a citizens' committee, or any combination thereof, or any other reviewing agency,

(e) That standards as such remain moot unless their content and meaning, through education and training, and through monitoring, become part of the creed of every law enforcement official;

Adopts the Code of Conduct for Law Enforcement Officials drafted by the Committee on Crime Prevention and Control at its fourth session and contained

in annex V to the Committee's report (E/CN.5/536-E/AC.57/30), to serve as a body of principles for observance by law enforcement officials of all nations.

The Committee on Crime Prevention and Control recommends that the Commission for Social Development transmit the following draft resolution to the Economic and Social Council for adoption:

The range of application and the implementation of the
Standard Minimum Rules for the Treatment of Prisoners 5/

The Economic and Social Council,

Recalling General Assembly resolution 3218 (XXIX) of 6 November 1974 and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment annexed to General Assembly resolution 3452 (XXX) of 9 December 1975,

Recalling also paragraph 6 of Council resolution 1993 (LX) of 12 May 1976, in which it requested the Committee on Crime Prevention and Control to study the range of application of the Standard Minimum Rules for the Treatment of Prisoners and to formulate a set of implementing procedures,

Aware that violations of the Standard Minimum Rules have frequently occurred where:

(a) Arrest and detention are effected when no charges have been preferred; or

(b) There is lack of lawful cause; or

(c) There is mislabelling of the nature of the detention;

Gravely concerned about potential abuses whenever arrest and detention are effected under such circumstances, and about subterfuges that can authorize any authority to deny prisoners and detainees the protection afforded by the basic principles of the Standard Minimum Rules for the Treatment of Prisoners,

1. Decides that a new section (sect. E, entitled "Persons arrested or imprisoned without charge") should be added to part II of the Rules, reading as follows:

Rule 95

"Persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under part II, section C. Relevant

5/ Idem, chap. VII below.

provisions of part II, section A, shall likewise be applicable where their application may conduce to the benefit of this special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation are in any way appropriate to persons not convicted of any criminal offence;"

2. Urges that the procedures for the effective implementation of the Standard Minimum Rules contained in annex VI to the report of the Committee on Crime Prevention and Control on its fourth session (E/CN.5/536-E/AC.57/30), be fully applied.

B. Recommendations

Human rights in the administration of justice 6/

The Committee recommended that priority be given to the possibility of formulating new standards for ensuring human rights in the administration of justice, including:

- (a) The development of standards that would ensure just, humane and effective judicial proceedings, improved selection and training of judges and prosecutors and the establishment of safeguards against the abuse of discretion in sentencing;
- (b) The elaboration of a set of standard minimum rules for the treatment of offenders in the community;
- (c) The strengthening of inmate grievance procedures by ensuring prisoners the right of recourse to an independent authority both at the national and international levels;
- (d) The facilitating of the return of persons convicted of crime abroad to their domicile to serve their sentences; and
- (e) The improvement of the situation of persons detained either in police custody or in prison custody before trial.

Role and function of the Committee on Crime Prevention and Control 7/

The Committee strongly recommended, in view of its increasing responsibilities, that appropriate action should be taken to provide for annual sessions of the Committee in order to enable it to deal more effectively with its increased

6/ Idem, chap. VI below.

7/ Idem, chap. X below.

workload, which reflected the growing concern of the world community about the social and economic burden that crime imposed on the citizens of many countries.

The following matters deserved particularly urgent consideration:

- (a) The trends in prison population;
- (b) The extent and consequences of economic criminality;
- (c) The thorough revision of the Standard Minimum Rules for the Treatment of Prisoners;
- (d) The further implementation of General Assembly resolution 3452 (XXX) of 9 December 1975; and
- (e) The elaboration of a code for judicial personnel.

In addition, the Committee stressed the need to be kept informed about the activities of the Commission on Human Rights, the Commission on Narcotic Drugs and other United Nations bodies with respect to matters originating in the Committee on Crime Prevention and Control, through dissemination to the Committee of the appropriate documentation. 8/

In consideration of the work commitments of most of its experts, the Committee recommended that late August or early September would be the most convenient time for its sessions, which could be held in places other than Headquarters, since that would increase the impact of the Committee's work in various regions. In that connexion, Bangkok was regarded as the most suitable location for the next session of the Committee.

Chapter XXII, programme 1, subprogramme 3 (Crime prevention and control)
of the medium-term plan for the period 1978-1981 9/

The Committee recommended that its comments on chapter XXII, programme 1, subprogramme 3, of the medium-term plan for the period 1978-1981 10/ should be brought to the attention of the Economic and Social Council at the sixty-first session, in conjunction with the Council's consideration of the medium-term plan during the second part of the session, from 12 July to 6 August 1976.

8/ Idem, chap II below.

9/ Idem, chap. IV, sect. I, below.

10/ Official Records of the General Assembly, Thirty-first Session, Supplement No. 6A and corrigenda.

II. REPORT OF THE FIFTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

1. The Committee had before it conference room papers and other documents containing the report of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, chapter I of which outlined matters calling for action by legislative bodies of the United Nations or that were being brought to the attention of those bodies, as well as the conclusions and recommendations of the Congress. Some members drew attention to certain aspects of the conclusions and recommendations that, in their view, deserved special attention, and to others that appeared to require some clarification:

(a) In connexion with paragraph 10, some reservations were expressed about the need for another narcotics convention, in view of the recent negotiation of the Protocol to the Single Convention on Narcotic Drugs, 1961, which required parties to make all drug offences listed in the treaty extraditable offences. It was pointed out that no active steps had yet been taken at the international level in that regard. However, such steps could usefully be initiated, in close co-operation with all bodies and offices concerned;

(b) In connexion with paragraph 17, it was suggested that the "establishment of an international agency of world-wide competence to deal with immigrant workers" could be fruitfully initiated on a regional basis;

(c) In connexion with paragraph 21 (i), the need for legislation to widen the options and flexibility of sentencing procedures and the training of judges in the use of alternative sentences was stressed;

(d) In connexion with paragraph 22 (a), it was observed that it was probably a misinterpretation to say that the establishment of an international police academy had been recommended by the Congress. Accordingly, the Secretariat issued a corrigendum to the report 11/ whereby subparagraph (a) was deleted.

2. Some speakers expressed concern regarding the text of certain items included among the conclusions and recommendations, especially those relating to the international court of criminal justice and international police co-operation. One observer, recalling the discussions of the Congress that had led to the adoption of the conclusions, emphasized that the references to international co-operation (paras. 14 and 22 (c)) had to be understood as facultative, envisaging such co-operation only when needed. Regarding the establishment of an international criminal court of justice, he wished it to be understood that the goal was probably not attainable in the immediate future.

11/ The report was subsequently issued as a United Nations publication (Sales No. E.76.IV.2) and the corrigendum was applied to the English text only, having already been incorporated in the other language versions.

3. The Assistant Director-in-Charge of the Crime Prevention and Criminal Justice Section of the Social Development Division was requested to examine the texts. He subsequently reported to the Committee that they were a faithful reproduction of the conclusions and recommendations adopted in the plenary meeting of the Congress.
4. The Committee expressed the desire to be kept informed about the activities of the Commission on Human Rights, the Commission on Narcotic Drugs and other United Nations bodies with respect to matters originating in the Committee on Crime Prevention and Control, through dissemination to the Committee of the appropriate documentation. The Committee also stressed the importance of finding ways of maintaining continuity in the work of the Congresses. One way to achieve such continuity was by providing for an adequate feedback on the activities emanating from the recommendations of the Congress. For that purpose, communications with Governments, scientific institutions and various other agencies should be strengthened. In addition, wider dissemination would be required of the reports of the Congress and of the Committee and of information on United Nations activities in the field of crime prevention and control, especially by newsletters. The provision of such information had been found useful in stimulating various regional and national initiatives, and examples of such initiatives were given.
5. While recognizing the need for encouraging technical co-operation, including seminars, training courses and bilateral aid, the Committee felt strongly that greater efforts should be directed towards the strengthening of existing local resources and traditions.
6. In adopting the draft report, the Committee also unanimously adopted a draft resolution on the report of the Congress (see chap. I, sect. A, above).

III.. METHODS AND WAYS LIKELY TO BE MOST EFFECTIVE IN PREVENTING
CRIME AND IMPROVING THE TREATMENT OF OFFENDERS /INTERNATIONAL
PLAN OF ACTION/

7. The Committee used as a basis for its discussion of this item a note by the Secretary-General (E/AC.57/23), which represented an amalgamation of the results of the work of previous sessions of the Committee and of the Fifth Congress on the item.
8. Reservations were expressed by members of the Committee concerning the use and bracketing of "International Plan of Action" as a subtitle. However, the Committee decided to retain the subtitle, considering that it was justified and that it implied the involvement and concern of the international community.
9. Questions were also raised regarding the scope of the document on which the broad policy or programme indications for specific action proposals were to be based. In that context, mention was made of the time span of the international plan of action, which, to some members, seemed rather overambitious.
10. The Committee was of the view that, in order to provide proper and more practical orientation for policy guidance in the formulation of preventive measures such as the integration of crime prevention elements in the planning process, or their interaction with such other aspects of social life as education or health, the document had to be more specific and detailed.
11. Doubts were expressed about the usefulness of the role of the Committee in drafting codes of conduct for personnel involved in crime prevention and control, while it was also pointed out that it was important to further develop standards and goals for the criminal justice system.
12. It was suggested that the Committee could undertake a more useful role by trying to pinpoint those new forms of crimes which deserved special attention, outlining the specific measures for their control, by offering better tools for crime prevention, such as methods and means for achieving an equitable distribution of income, which might help to reduce the propensity to commit criminal acts; and by encouraging the removal of certain inequities in levels of living, thereby contributing to the achievement of more balanced development.
13. In that regard, it was emphasized that the Committee should recognize the need and importance of developing the methodology and techniques for making criminal policy part of over-all development policy and planning.
14. Observations were made on the lack both of adequate guidelines for policy development and of appropriate recognition of the importance of crime prevention and of the Committee's work within the general framework of United Nations activities. The need for greater initiative towards those ends was all the more obvious.

15. Certain doubts were also expressed about the priorities to be attached to the new forms of criminality, but general agreement was expressed that emphasis should be placed on such new forms as economic criminality and crimes of transnational significance.

16. With regard to the manifest desire for a crime-free society, the view was expressed that, desirable as that might be, it could not be considered as the most ideal situation in some societies. The existence of some degree of crime might be considered an indicator of a society's health; however, it had to remain within certain tolerance levels, which varied with particular societies.

17. Concern was expressed at the lack of adequate machinery for the collection and exchange of information and knowledge in planning for crime prevention, and it was recommended that appropriate measures should be taken to establish agencies in national Governments that would be responsible for both the planning and development of information systems. In addition, efforts should be made to evaluate the effects of criminality on development and the effectiveness of the measures taken to control crime.

18. It was noted, however, that some countries, especially the developing ones, lacked the resources required for the implementation of such programmes. In that regard, the need for United Nations technical co-operation and bilateral and multilateral aid was emphasized. Nevertheless, due consideration should be given to the strengthening and improvement of conventional measures for coping with crime problems.

19. A proposal was made that the Committee should include in its report certain considerations regarding the treatment of drug addicts in treatment centres or institutions, but concern was also expressed about the dangers of abuse of civil commitment procedures for drug abusers.

20. The Committee expressed the view that good relations between police and community were a prerequisite for efficient functioning of law enforcement agencies, and that the establishment of an independent body responsible for dealing with complaints concerning police activities was desirable.

21. The Committee also stressed the need for a new criminal policy based on a differentiated strategy of measures and sanctions, and for adequate training and specialization of personnel, keeping in mind that, given the very nature of crime, the criminal justice system alone - even the most perfect one - could not cope effectively with it. In fact, neither the police, the courts nor the prisons could change the economic, social and political conditions that usually led to crime.

22. With a view to harmonizing the differing viewpoints expressed during the discussion, and following the proposal for refocusing the document, the Committee decided to establish two informal working groups.

23. The two informal working groups satisfactorily accomplished their task and, following the presentation of the results of their work, the Committee decided to amend, accordingly, the text under consideration (see Annex IV below), which would then be transmitted to the General Assembly through the Commission for Social Development and the Economic and Social Council together with a draft resolution adopted unanimously by the Committee (see chap. I, sect. A above).

IV. PROGRESS REPORT ON UNITED NATIONS ACTIVITIES IN CRIME PREVENTION AND CONTROL

24. At the beginning of the discussion attention was drawn to the fact that the progress report (E/AC.57/27) contained two addenda, the first (E/AC.57/27/Add.1) identifying potential topics for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at Sydney, Australia, in 1980, and the second (E/AC.57/27/Add.2), dealing inter alia, with the request of the Committee for Programme and Co-ordination that its comments on chapter XXII, programme 1, subprogramme 3, of the medium-term plan for the period 1978-1981, 12/ concerning the activities that were envisaged in the field of crime prevention and criminal justice, should be transmitted to the Committee on Crime Prevention and Control.

25. The Committee noted with satisfaction the progress that had been made in the implementation of the activities entrusted to the United Nations. It also noted with appreciation the continued efforts and goodwill of the United Nations in rendering assistance to requesting countries, so as to improve their capacity to resolve some of their immediate crime problems and to make more comprehensive plans for the future.

A. The Standard Minimum Rules for the Treatment of Prisoners

26. The Committee reviewed recent developments concerning the Standard Minimum Rules for the Treatment of Prisoners. It was informed that, pursuant to Economic and Social Council resolution 663 C (XXIV) of 31 July 1957, the Secretary-General, on 14 May 1975, had addressed an inquiry to Member States concerning the implementation of the Standard Minimum Rules. The results of that inquiry, to which 62 Member States and 63 States within federated systems had responded, had been reported to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

27. Briefly summarized, the responses to the inquiry revealed that the Standard Minimum Rules had had a significant influence on the laws and regulations of a great number of the countries and jurisdictions that had replied and that, to a large extent, the provisions of the Rules were embodied in their national laws. A comparison of the results of the inquiry with those of the survey conducted at the end of the 1960s revealed that the influence of the Rules had increased notably.

B. Census of prison population

28. The Committee reviewed the activities relating to the collection of data on prison populations in Member States. Although the two surveys conducted under

12/ Official Records of the General Assembly, Thirty-first Session, Supplement No. 6A and corrigenda.

United Nations auspices could neither reflect any definitive trend nor indicate whether the decrease in the prison population in some countries was the result of an actual decline in the use of imprisonment or if the imposition of shorter prison sentences, the Committee stressed the great value of the surveys. At the same time, concern was expressed that too few data were available so far and much needed to be done in that respect.

29. It was also felt that regional institutes could play a role in the collection of data for a census of prison population.

C. Capital punishment

30. The Committee noted the recent developments in the field of capital punishment, as summarized in the relevant report of the Secretary-General (E/5616 and Corr.1 and 2 and Add.1), based on information provided by 49 Governments.

31. Note was also taken of Economic and Social Council resolution 1930 (LVIII) of 6 May 1975, in which the Council had expressed its agreement with the following views presented in the report:

(a) Since the issuance of the United Nations reports of 1962 and 1967 on capital punishment, a majority of Member States had gradually shifted from a concern about the issue of the death penalty to favouring the eventual abolition of that punishment;

(b) The total number of offences for which the death penalty could be imposed had been progressively declining in many parts of the world.

The Council had also requested the Secretary-General, in accordance with General Assembly resolution 2857 (XXVI) of 20 December 1971, to proceed with the report on practices and statutory rules which might govern the right of a person sentenced to capital punishment to petition for pardon, commutation or reprieve and to report on those questions to the Council at the latest at its sixty-eighth session, together with the basic 1980 report on capital punishment.

D. Publications

32. The Committee was informed that issue No. 33 of the International Review of Criminal Policy, dealing with the emerging roles of police and other law enforcement agencies, was prepared for publication and that contributions had been received for issue No. 34, dealing with international commitments relating to the prevention of crime. Moreover, under a United Nations-New York University Press publication arrangement, it was intended to publish a series entitled International Monographs on Criminal Policy. The manuscript for the first volume of that series, The Place of Criminal Justice in Development Planning, had already been received and was being prepared for publication.

E. Institutes

United Nations Social Defence Research Institute

33. The Director of the United Nations Social Defence Research Institute made a statement in which he summarized the major activities in progress. He also highlighted certain areas of international, regional and national concern. He referred particularly to the need for a collaborative effort in developing more viable information systems, methods and means for the effective and rational transfer of experience and expertise, and the training of those officials responsible for or involved in those specialized areas.

34. The Director expressed the hope that, with improved funding for both current and projected activities, the capacity of the Institute to collaborate more effectively in the international effort to minimize the impact of crime on development would be greatly enhanced.

United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders

35. In presenting a summary of the work of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), the Director of the Institute observed that both the management and funding of UNAFEI activities were currently the sole responsibility of the Government of Japan. However, that new dimension in the relationship between UNAFEI and the United Nations did not in any way constitute a departure from the original intentions and the commitments to provide a needed service to the international community. The Institute would continue to give both regional and interregional orientation to its work, within the framework of United Nations activities in the field.

Latin American Institute for the Prevention of Crime and the Treatment of Offenders

36. The Director of the Latin American Institute for the Prevention of Crime and the Treatment of Offenders presented a summary of the activities undertaken by the Institute, which had been established by an agreement between the United Nations and the Government of Costa Rica in July 1975. Since then the Institute had conducted a seminar on planning for crime prevention in the context of national development, and a training course on human rights in the administration of justice; it had also convened a conference of Ministers of Central American States, Mexico and Panama, to be followed by a similar one for the South American countries to be held later in 1976. A regional colloquium on criminal policy would be held in co-operation with the Government of Mexico in August 1976. A range of other activities was being planned, emphasizing data collection and dissemination, with statistical pilot project and research on selected topics of regional concern. A publications programme was also being initiated.

Scope, function and research activities of the institutes

37. While general satisfaction was expressed in connexion with the work of the institutes in the field of crime prevention and control, there was some discussion about the scope, orientation and priorities of their activities.

38. The evaluation of the role of the institutes was considered to be a significant element in any effort by the Committee to assess the impact of United Nations activities in the field of crime prevention and control. There was also a need for clarification of the relationship between the United Nations and the regional Institutes.

39. The view was expressed that the Committee should make a determination of the proper role of the institutes. It was noted that some of the institutes fulfilled principally a training function, while in others the emphasis was on research. That raised the question whether the nations of the regions served by the institutes had expressed a clear preference for the courses to be pursued by the institutes and whether an effort should be made to co-ordinate their functions and activities more closely. It was also felt that all of the institutes should engage in research and that such research activities would require co-ordination by the Secretary-General. In that connexion the institutes should be provided with adequate funding to carry out the above function, as well as other activities for which they had been created.

40. To obviate the risks of duplicating training and research facilities and services, consideration should be given to a close and unbiased scrutiny of existing facilities before it was decided to establish new ones. It was also pointed out that priority should be given to the consolidation of existing facilities and services rather than to their expansion, but that the wishes of and priorities assigned by the countries of a region should be accorded paramount significance.

41. A proposal was made concerning the establishment of a United Nations institute for crime prevention and control to service countries of Africa south of the Sahara. The need for such an institute was considered to be crucial to the development of efficient and consistent information and data systems in the region. The Committee felt that ways should be found to stimulate and gauge the interest of countries in the region in the establishment of the institute.

F. Technical assistance

42. The Committee was informed of the technical assistance provided to countries during the period under review, which had been focused on the development of planning techniques for the prevention of crime and the treatment of offenders in the context of national development planning. In that connexion, the United Nations had provided both material and substantive support to Governments requesting it and had also sponsored interregional and regional conferences and training courses designed to promote collaborative efforts in planning for crime control.

/...

43. In that connexion the Committee emphasized the impact of the first Commonwealth Caribbean Conference for Collaboration in Crime Prevention and the Treatment of Offenders, held at the Mona Campus of the University of the West Indies at Kingston, Jamaica, from 5 to 11 January 1975, the interregional training course on social defence planning, organized at Sydney, Australia, from 8 to 14 November 1975, and the seminar on the same subject held in preparation for the course, at San José, Costa Rica, from 11 to 16 August 1975.

44. The Committee also took note that technical assistance had been or was being provided to seven countries at their request.

45. At the same time, concern was expressed regarding the lack of funds available for technical assistance. It was pointed out that too often a low priority was given to crime prevention projects in national planning programmes. The need to obtain higher priority for assistance by the United Nations Development Programme in the field of crime prevention was emphasized, with special reference to urgently needed support of the activities of the regional institutes. The latter provided a particularly valuable resource for promoting crime prevention in the developmental context, and they deserved maximum support from the United Nations Development Programme and other technical co-operation agencies, as well as from Governments in the regions. The need for such assistance in strengthening the research component of their activities was also emphasized.

46. Interregional advisory services were also required to help countries assess their crime problems and needs, and to formulate specific requests for technical assistance related to national development strategies and requirements. The services of such advisers, available in the past, had been suspended because of shortages of funds. It was important that they be resumed at the earliest possible date, perhaps again through the provision of the services of an interregional advisor by a Member State.

G. Social Defence Trust Fund

47. A brief report on the status of the Social Defence Trust Fund was given, with an indication of the donor countries during the past nine years. Attention was drawn to the relatively low level of funds available in the Trust Fund, particularly as compared with other United Nations trust funds. Energetic steps were needed to increase the number and level of contributions so as to permit their use for other urgent needs, including the strengthening of the regional institutes.

H. Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

48. In connexion with the potential topics for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Australian Co-ordinator for the Congress informed the Committee about the organizational arrangements.

49. The Committee questioned the appropriateness of the proposed theme, "The quest for freedom from crime", and invited the Secretariat to consider an alternative. In that regard, members agreed that the unifying theme for the Congress should reflect the past successes and future endeavours for the development of humane crime prevention policies. Such a theme would be consistent with the envisaged topics for the Congress.

50. The Committee agreed on the following general observations:

(a) The Congress should expose practical issues in crime prevention and control and devise practical solutions, in an administrative as well as a professional context;

(b) Research and evaluation aspects should, wherever possible, be incorporated into the topics dealt with by the Congress;

(c) The Congress should provide information on the achievements as well as the failures of crime prevention policies and should make reference to the progress made with regard to topics covered by the conclusions of the Fifth Congress; and

(d) The Congress should deal with preferably four, but not more than five, main topics.

51. The experts then considered the following potential topics for the Congress, proposed by the Secretariat:

Topic I. Crime prevention: trends, goals and strategies;

Topic II. Juvenile justice: before and after the onset of delinquency;

Topic III. "Gilded" criminality: offences and offenders beyond the reach of the law;

Topic IV. De-institutionalization of corrections: prospects for the most feared offenders;

Topic V. Victims of crime and of criminal justice;

Topic VI. Norms and guidelines: from standard-setting to implementation.

Topic I

52. There was strong support for the inclusion of topic I in the agenda of the Congress. It was suggested that the topic should not only emphasize international co-operation, but should also deal comprehensively with the formulation of strategies and policies on the national level. It was also recommended that attention be devoted to crime prevention planning. That would maintain continuity with agenda items of previous Congresses dealing with socio-economic change.

Topic II

53. Topic II also received support. It was noted that the subject of juvenile delinquency had appeared on the agenda of the first three Congresses and, in view of the increase in the younger age categories of the population and significant changes in methods and procedures to deal with delinquency, especially the introduction of human rights considerations, it was appropriate that the topic should be brought forward again at the next Congress. The more intensive development of techniques to deal with maladjusted and delinquent persons during their earliest years, while their future patterns of behaviour were in the formative stages, ranked as one of the most important areas in which to allocate crime prevention resources.

54. Some observations were made on the breadth of the topic. In the first place, it was suggested that an attempt should be made to translate general criteria on strategies to assist maladjusted and delinquent persons into practical guidelines to facilitate implementation in the administrative context. For example, special studies might be made on the problem of socialization and social adjustment, with a view to compiling guidelines directed at the problems of delinquent persons.

55. In the second place, in keeping with the importance placed on the report of the Secretary-General on the role of the educational system, it was suggested that a specific study be made of the means by which crime prevention planning might become an integral part of educational planning. Such a study might include an examination of the ways in which professional expertise in crime prevention planning could be developed within, and as part of, the normal processes of educational planning and administration.

56. Thirdly, the topic could explore the processes of diversion from the criminal justice system in its application to the juvenile jurisdiction. A statement of guidelines based on recent successful experiments could be extracted and developed for general use to assist policy-makers and administrators.

57. If it should prove necessary to restructure the agenda for the Congress in order to accommodate four items instead of five, consideration should be given to the development of topic II in the context of topic I.

Topic III

58. There was general support for the inclusion of topic III in the agenda of the Congress, though reservations were expressed about its title. Several members stressed the importance of focusing on the abuses of economic power that victimized large numbers of people. It was also noted, however, that consideration of abuses of social and political power should not be neglected. The development of information-gathering capability in that entire area was important for devising more adequate preventive strategies. It was agreed that the emphasis should be on the implications for policy-making and the development of concrete proposals for practical action. For example, at the national level attention could be given to improvements that might be introduced to meet problems created by the complexity

length and cost of legal proceedings with respect to white collar and corporate crime and to procedural and evidentiary principles and guidelines consistent with the observation of fundamental human rights. At the international level there was scope for the collection, exchange and dissemination of information through a central mechanism or on a regional or bilateral basis which might be more feasible in practical terms. In addition, the possibility could be explored of drafting an international convention with respect to the investigation of economic offences and of formulating international guidelines in the matter.

Topic IV

59. No objection was raised to the inclusion of topic IV in the agenda for the Congress. It was observed that the topic was based on the assumption that the trend towards de-institutionalization recommended by the Committee at its third session and by the Fifth Congress was continuing. The topic should therefore be supplemented by a subtopic dealing with practical measures designed to speed up the process of de-institutionalization. Such an approach would maintain the continuity of the work of the Fifth Congress and previous Congresses, which had dealt with alternatives to imprisonment.

60. The process of de-institutionalization could be considered in the context of such matters as the establishment of guidelines for the development of sentencing codes, laws and practices so as to reduce the use of imprisonment to the level of a measure of last resort.

Topic V

61. In considering topic V, the Committee agreed that, while the proposed study of compensation and restitution schemes was desirable, the topic might be considered in the context of the development of alternatives to the imprisonment of offenders, within the purview of topic IV. A study of victims of the criminal justice system might be considered in the wider context of the design of crime prevention strategies under topic I; and both parts of topic V might also be considered within the purview of the human rights topic, topic VI. The topic, if covered separately, should be broadened to include not only the relationship between victims and offenders but also the participation of other persons, such as witnesses and volunteers, in the criminal justice system.

Topic VI

62. The inclusion of topic VI in the agenda of the Congress was strongly supported. It was stated that the discussion of the topic would continue the long history of the development of human rights instruments by the United Nations. At the same time, the proposal of the Secretariat for the creation of a coherent network of human rights standards in the administration of criminal justice provided an imaginative and challenging conception of the means by which initiatives of the United Nations in the field of human rights might be extended.

Summary of topics

63. In summary, the Committee suggested that the Secretariat proceed with the elaboration of topics I, II, III, IV and VI, that the subject matter of topic V be absorbed by topics I, IV and VI respectively, and that, if it were found to be necessary, topic II be considered as a subtopic of topic I. It was established that the matter should be left to the discretion of the Secretariat; the Committee wished to review the exact titles of the topics at its fifth session.

I. Medium-term plan for the period 1978-1981

64. In considering chapter XXII, programme 1, subprogramme 3 (crime prevention and control) of the medium-term plan for the period 1978-1981, the Committee agreed on the following general observations:

(a) The subprogramme should reflect the themes and priorities that the Committee on Crime Prevention and Control had established in its report on methods and ways likely to be most effective in preventing crime and improving the treatment of offenders (see annex IV below);

(b) The projects to be executed within the subprogramme should bear a relation to the topics agreed upon by the Committee for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in order to ensure the most economical deployment of staff and use of resources.

65. The experts felt that the objective of the subprogramme and the paragraphs under heading (b), "Problem addressed", as reformulated by the Secretariat in document E/AC.57/27/Add.2, were acceptable. With reference to the first two paragraphs, under heading (d) "Strategy and output", it was felt that initially such data could, on the international level, only be crudely comparable and accurate. The intention should be understood as constituting not only a call for the creation of a data collection system and its constant improvement, but also as a call for the utilization of such data by formulating guidelines and measures for combating crime.

66. There was a consensus to the effect that the achievement of the objective of the subprogramme depended on the availability of comprehensive, comparable and reliable information in crime prevention and control. While the development of a comprehensive international clearing-house service for the collection of information and transmission of knowledge was a long-term task, the task had to be initiated immediately as an item of high priority. It would be facilitated by the fact that some countries had already succeeded in developing adequate statistical bases for national policy formulation.

67. The members agreed that, in order to deal more efficiently with crime problems in culturally homogeneous countries, regional co-operation should be promoted by strengthening the existing regional training and research institutes (the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, at Fuchu, Japan, the Latin American Institute for the Prevention of

Crime and the Treatment of Offenders, at San José, Costa Rica, and the United Nations Social Defence Research Institute, at Cairo, Egypt), and by creating new institutes in regions not yet served, such as Africa south of the Sahara. Besides assisting national crime prevention efforts by identifying common crime problems and prevention strategies, the activities of the institutes also provided information on regional crime problems for the development of regional criminal policies and planning.

68. The objective of the creation of data-gathering and analysis systems for purposes of scientific crime prevention planning within over-all international and national socio-economic planning strategies should be covered by a separate project. It should be the purpose of that project, within the framework of the international plan of action, to develop the Secretariat's capacity to collect, evaluate and use data on the incidence and trends of crime and the development at both the national and international levels of strategies, measures and guidelines for crime prevention. The development of such a data-gathering and analysis capacity deserved the highest priority. The project should also develop and strengthen national capacities for establishing central crime prevention planning strategies and agencies, in conjunction with the proposals contained in paragraphs 33, 34 and 36 of the International Plan of Action (see annex IV below).

69. The Committee commented on the projects outlined in paragraph 1771 of the subprogramme as follows:

(a) The project in paragraph 1771 (a), the prevention of criminality harmful to national economies and the new international economic order, involved many diverse and complex issues, which were both technical in nature and had considerable political implications. Obviously the project had been selected for the medium-term plan because of the strong recommendations in paragraph 8 of the report of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 13/ and because of the priority accorded in the United Nations system to matters relating to the new international economic order. The topic was closely related to programmes of the Commission on Transnational Corporations 14/ and the United Nations Conference on Trade and Development (UNCTAD), 15/ whose work was already in progress. While that factor alone did not divest the Crime Prevention and Criminal Justice Section of the Social Development Division of the obligation to deal with that criminological problem area, it did call for close co-operation with the above agencies in an effort to avoid duplication of work and to maximize resources. In view of the criminological expertise represented in the Crime Prevention and Criminal Justice Section, it was suggested that the project might be reoriented to focus on the identification, prevention and control of criminality involving persons with economic, social or political power. Measures should also be elaborated to prevent criminality related

13/ United Nations publication, Sales No. E.76.IV.2.

14/ See E/C.10/10.

15/ See TD/B/C.2/159.

to the environment, particularly in developing countries, such as exploitation of natural resources and pollution. The project would constitute an effort to develop strategies for dealing with such offences in order to protect the large group of victims who were ordinarily affected by that type of criminality, which was not exclusively economic. Framed in that perspective, the project would be closely linked to one of the proposed topics for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The topic would deal with offences and offenders seemingly beyond the reach of the law and would focus on criminal abuses of economic as well as other types of power;

(b) The project in paragraph 1771 (b), the incorporation of environmental and social crime prevention policies in housing and town planning, should be understood as being directed in particular towards the strengthening of the human element in human settlements. Urban environments could influence criminal behaviour by providing the physical surroundings to which individuals reacted and, more importantly, by providing the social relations to which they responded. In that regard, an attempt should be made to cope with crime through an appropriate social and environmental design, which, while taking into account safety and security in streets, buildings and parks, would specifically provide for improved social cohesion, so as to avoid anomie, loneliness, unemployment and alienation, which frequently characterized urban life. The project should be co-ordinated with the Centre for Housing, Building and Planning, the United Nations Habitat and Human Settlements Foundation and the United Nations Environment Programme;

(c) The project in paragraph 1771 (c), the causes of violence among youth and the negative and positive impact of the mass media, should be reoriented, with a view to analysing the causes and effects of violence in broader terms. Emphasis should be placed on the treatment of offenders who were or were regarded as particularly violent and dangerous and possibly prone to recidivism. Those offenders might constitute at most 10 per cent of the prison population in countries in which alternatives to imprisonment had not yet had an impact. The project could be related to one of the proposed topics for the Sixth Congress, entitled "De-institutionalization of corrections: prospects for the most feared offenders";

(d) The project in paragraph 1771 (d), the incidence of female criminality, was not regarded as of equally high priority. Among the more notable changes in forms and dimensions of criminality were recent changes in female criminality in various countries. Because there were no accurate and internationally comparable data on female criminality, there was a need for considerably more research before conclusions could be reached and planning initiated. In particular, studies should be undertaken on the interrelation between socio-economic development, the integration of women into national economic life and female criminality. The project, which was not related to the Sixth Congress, was relevant also because the topic had been stressed not only by the Fifth Congress 16/ but also by the World Conference of the International Women's Year, which had recommended that in the

16/ See Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (United Nations publication, Sales No.: E.76.IV.2), paras. 18 and 19.

area of the prevention of crime and treatment of offenders, special attention should be paid to female criminality, which was increasing in many parts of the world, and to the rehabilitation of female offenders, including juvenile delinquents and recidivists. Research in that field should include study of the relation between female criminality and other social problems brought about by rapid social change. 17/ In addition, the role of women as victims of crime should be explored;

(e) The project in paragraph 1771 (e), the promotion of equal participation of women in law enforcement, the judiciary and correctional systems was intended to focus on specific legal, economic and social conditions which had led to the discrimination against women in the criminal justice systems of some countries. Such a project could evaluate the positive experience of countries where women already participated fully and equally in the administration of criminal justice, in order to make that experience generally available and to create guidelines for the improvement of criminal justice systems. The Committee recommended that the project, which depended on the availability of funds, might be developed in close co-operation with the Promotion of Equality of Men and Women Branch of the Social Development Division.

70. The Committee was aware that not all recommendations of the International Plan of Action, a long-term programme, could be included in the medium-term plan. The participants agreed, however, that the Secretariat had incorporated in the medium-term plan those priority areas in crime prevention and control in which the development of measures and guidelines for policies and planning was particularly important.

17/ See Report of the World Conference of the International Women's Year
(United Nations publication, Sales No. E.76.IV.1), para. 158.

V. CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

71. The discussion started with the introduction of the draft code of conduct for law enforcement officials (E/AC.57/25, annex), a revised text of which had been agreed to in principle by an informal working group of the Committee.

72. Opinion varied on the question of whom the code was addressing. While members felt that it should be addressed exclusively to law enforcement officials, others were of the opinion that, in order to guarantee the legitimacy of the code, it should not exclude or by-pass other agencies of criminal justice. The main problem was whether it applied to all segments of the criminal justice system or only to police officers and those acting in that capacity. In the latter case, it was observed, there appeared to be an inconsistency between the preamble and the operative paragraphs of the code, which would thus become discriminatory against police officers in comparison with other personnel in the criminal justice system.

73. The Assistant Director-in-Charge of the Crime Prevention and Criminal Justice Section of the Social Development Division explained the scope of the request made by the General Assembly in resolution 3453 (XXX), and indicated that the proposed code of conduct for law enforcement officials should cover only the conduct of law enforcement officials at the police level, but that the code might well become a model for future codes applying to judges and prosecutors. In that regard, it was suggested, and unanimously accepted that, in transmitting the draft code to the appropriate bodies, the Committee would recommend the drafting of similar codes for other criminal justice personnel. On that basis, the Committee agreed that, while the provisions of the code itself should be directed to law enforcement officials, the admonitions contained in the preambular provisions should be addressed to the entire criminal justice system.

74. While some experts feared that the text was too technical for the comprehension of the average police officer, others were of the view that there was no justification for diluting the language of the text. In that connexion, the need for more precise definitions of some of the acts to be covered by the code was stressed, since some of those acts might be interpreted in different ways by different national authorities. In particular, several members proposed that the definition of such words as "law enforcement officials", "torture", "cruel or inhuman treatment", "medical personnel" and "corruption" be provided.

75. Questions were also raised as to the legal effect of the code, but some members noted that the code had to be considered as a compendium of principles, which could be applied by different countries by such means as they saw fit, especially by incorporating its principles in national legislation. It was mentioned that in some countries those principles were already contained in national legislation. In considering the code section by section, a variety of drafting suggestions were made, and it was stated that incorporation of bodies of principles or rules which were not directly pertinent to law enforcement officials might reduce the effectiveness of the code both as a guide for conduct and as an educational tool.

76. For that reason the Committee thought it opportune to reduce the number of articles, in order to have more consistency, and agreed on the necessity for having a commentary, to be considered an integral part of the code, accompanying the articles, clarifying and enlarging upon them and giving definitions of some technical terms used in the articles. The Committee also agreed on the need to review the language versions of the texts on which consensus had been achieved.

77. After the amalgamation of several articles of the draft code, as well as of the preambular provisions, the Committee adopted the revised instrument (see annex V below) and approved an accompanying draft resolution which would constitute the preamble to the code (see chap. I, sect. A above).

VI. HUMAN RIGHTS IN THE ADMINISTRATION OF JUSTICE

78. By resolution 1584 (L) of 21 May 1971, the Economic and Social Council had decided that the Committee on Crime Prevention and Control should report not only to the Commission for Social Development but also, as appropriate, to the Commission on Human Rights and the Commission on Narcotic Drugs, on particular aspects. In accordance with that resolution the Committee considered the question of human rights in the administration of justice.

79. The Committee had before it a note by the Secretary-General entitled "Human rights in the administration of justice" (E/AC.57/24 and Add. 1). The note outlined the standards of the United Nations with regard to those human rights which were most directly involved in crime prevention and the treatment of offenders.

80. The Assistant Director-in-Charge of the Crime Prevention and Criminal Justice Section of the Social Development Division introduced the topic, reporting on past activities and outlining future tasks.

81. The Committee heard a statement by the Chief Liaison Officer of the Division of Human Rights on recent United Nations activities in the field of human rights in the administration of justice, including action taken by the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities.

82. He first pointed out that one of the greatest achievements of the General Assembly at the thirtieth session was the adoption by resolution 3452 (XXX) of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He referred to the entry into force of the International Covenant on Civil and Political Rights, which would lend further legal support to the safeguard of the human rights of detained persons. He also referred to resolution 10 (XXXII) of the Commission on Human Rights of 5 March 1976, in which the Commission, in response to General Assembly resolution 3453 (XXX), invited the Sub-Commission, when considering the question on human rights of persons detained or imprisoned, to take into account the principles contained in the above-mentioned Declaration, and further to draw up a body of principles for the protection of all persons under any form of detention or imprisonment.

83. He also stated that the Sub-Commission by its resolution 7 (XXVII) had decided to review annually the developments in the field of the human rights of detained persons.

84. Finally, he stated that there had been close co-operation between the Crime Prevention and Criminal Justice Section of the Social Development Division and the Division of Human Rights. It was pointed out that the discussions or recommendations of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders had already been reported to the Commission on Human Rights at its thirty-second session.

85. After taking note of the information provided, the Committee surveyed the scope of the existing standards in the administration of criminal justice. The discussion focused on the following issues:

(a) Evaluation of the provisions of the existing standards relevant to measures of international implementation;

(b) Examination of the procedural arrangements required for the implementation of the standards;

(c) Recommendation of possible ways of accelerating the pace of implementation; and

(d) Development of United Nations standards in the administration of criminal justice, so as to extend the network of standards.

86. The Committee recommended that priority be given to the possibility of formulating new standards for ensuring human rights in the administration of justice, including:

(a) The development of standards that would ensure just, humane and effective judicial proceedings, improved selection and training of judges and prosecutors and the establishment of safeguards against the abuse of discretion in sentencing;

(b) The elaboration of a set of standard minimum rules for the treatment of offenders in the community;

(c) The strengthening of inmate grievance procedures by ensuring to prisoners the right of recourse to an independent authority both at the national and international levels;

(d) The facilitating of the return of persons convicted of crime abroad to their domicile to serve their sentences; and

(e) The improvement of the situation of persons detained either in police custody or in prison custody before trial.

VII. THE RANGE OF APPLICATION AND THE IMPLEMENTATION OF THE STANDARD
MINIMUM RULES FOR THE TREATMENT OF PRISONERS

87. In a brief statement, the Assistant Director-in-Charge of the Crime Prevention and Criminal Justice Section of the Social Development Division introduced the topic, pointing out that the main task of the Committee was to ensure the applicability of the Rules to all persons detained, whatever the cause of the incarceration or whatever the deciding authority, and to secure the effective implementation of the Rules.

88. On the proposal of the Chairman, the Committee decided to approach the matter by first discussing the range of application, and thereafter the implementing procedures, as suggested in the note on that subject by the Secretary-General (E/AC.57/28).

89. At the outset of the discussions questions were raised concerning the nature, scope and underlying principles of the Rules. Some members of the Committee were of the view that certain sections of the Rules were outdated, that they reflected an ideology currently undergoing re-examination and were based on a treatment model which was under strong criticism. The Committee suggested that a general over-all reassessment of the Rules should be initiated and stressed the need for an extensive revision of the Rules.

90. However, there was a consensus that the scope of the Committee's current mandate was not sufficiently broad to permit it to undertake such a task at that time. Furthermore, it did not seem advisable, from an educational point of view, to touch the Rules, since they were considered as a kind of prisoners' "Magna Carta". It seemed more appropriate to provide commentaries on the Rules.

91. While there was agreement that the Rules should be modernized and that adequate procedures and measures should be devised in order to undertake such a task, the general understanding was that financial implications would probably be involved and there was agreement that the Committee should therefore ask the Economic and Social Council for a specific mandate in that respect. Other solutions, such as the establishment of informal working groups or the organization of ad hoc meetings of experts, were also mentioned.

92. In discussing the proposed amendments of rules 4 (1) and 84 (1), it was pointed out that it was extremely difficult to extend the jurisdiction of the Rules, primarily because in some quarters they were not conceived as being applicable to detainees in police lock-ups.

93. In particular, with reference to the change proposed in rule 4 (1), it was noted that such a change would imply a complete breakdown in the entire structure of part I of the Rules, which covered the general management of institutions and was applicable to all categories of prisoners detained by judicial authority. With reference to rule 84 (1) the difficulty of extending the concept of "untried prisoners" to those detained without charge was noted.

94. Taking the above remarks into account, the Committee decided to recommend the addition of a new section, section E, to part II of the Rules, entitled "Persons arrested or imprisoned without charge", and established an informal working group to draft the text for a new rule, which would be rule 95.

95. The text agreed upon by the working group was discussed. Some members felt that the exclusion of such a new category of prisoners from part I was discriminatory against such prisoners and proposed extending the provisions of part II, section A, to those prisoners as well; they also realized, however, that such an extension might not preclude the possibility of abuses. The Committee agreed on the following text:

"E. PERSONS ARRESTED OR IMPRISONED WITHOUT CHARGE

"95. Persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under part II, section C. Relevant provisions of part II, section A, shall likewise be applicable where their application may conduce to the benefit of this special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation are in any way appropriate to persons not convicted of any criminal offence."

96. The Committee then turned to the discussion of the proposed draft procedures (with commentary) for the implementation of the Standard Minimum Rules for the Treatment of Prisoners. It was pointed out that in most instances the draft procedures were merely the codification of existing practices, standards and rules, though in certain cases some innovative features had been included. The scheme of implementation rested largely on the goodwill of all those concerned, particularly Governments, and on efforts to increase the capability of Member States to secure implementation. The additional mechanisms that were in force relied on the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities for their implementation. Those procedures were outlined by the representative of the Division of Human Rights.

97. The possibility of duplication or overlap of the Committee's tasks with those of the human rights organs was mentioned in that respect, but it was pointed out that different mandates had been given to the different bodies and that the Committee's task was complementary to that of the Commission on Human Rights and its subsidiary body. Furthermore, its activity had to be seen in relation to other aspects of the work on international standard-setting in the area of criminal justice, all of which were co-ordinated by the Secretariat. It was evident that the various activities involved required effective information-gathering and feedback procedures, so that proper evaluation of the results achieved could be made.

98. After some discussion, procedures 1-3 and 5-9 relating to implementation were adopted as proposed. In connexion with reporting systems, the wording of suggested procedure 4 was amended to include the specialized agencies and intergovernmental and non-governmental organizations, which would provide relevant information to the Secretary-General, as appropriate. Procedure 4 was

then adopted, as amended. Procedure 9 was slightly amended by adding the words "or development" after the word "assistance". The words "continue to give" in the first line of paragraph (c) were changed to "strengthen".

99. In the course of the discussion regarding proposed procedure 10, it was pointed out that, with the termination of the working group on the Rules, there was no United Nations body that could perform the functions of periodic review of the Rules, and that those functions therefore fell within the purview of the Committee's work. Some members expressed reservations about the capacity of the Committee to undertake that task in view of the fact that it met only once every two years. It was suggested that the working group on the Standard Minimum Rules should be reconstituted.

100. As a result of the discussion, the Committee decided to retain subparagraphs (a), (b) and (d) of procedure 10, but to delete (c) and (e). With regard to the codification of the existing implementation mechanisms of the Commission on Human Rights, the Committee expressed a preference for leaving those mechanisms intact in view of budgetary and other constraints. Procedure 12 was therefore amended in order to reflect such wishes, while procedure 13 was deleted. The words "formation and methodology" in procedure 14 were also deleted. In approving the final text (see annex VI below) the Committee unanimously agreed on a draft resolution to be submitted to the Economic and Social Council for adoption (see chap. I, sect. A above).

VIII. REVIEW OF THE RULES OF PROCEDURE OF THE UNITED NATIONS CONGRESSES
ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

101. In view of its heavy workload, the Committee decided to postpone this agenda item until its next session.

IX. CONSIDERATION OF THE PROVISIONAL AGENDA FOR THE FIFTH SESSION
OF THE COMMITTEE ON CRIME PREVENTION AND CONTROL

102. In accordance with Economic and Social Council resolution 1894 (LVII), the Committee considered the draft of the provisional agenda for its fifth session, which anticipated the documentation required and specified the authority under which the different items would be considered.

103. The draft provisional agenda was discussed, amended and adopted by the Committee (see annex II below).

X. PROSPECTIVE WORKING ARRANGEMENTS FOR THE COMMITTEE

104. The Committee discussed its own role, the financial constraints which precluded the possibility of meeting more frequently, and possible courses of action that might be pursued. It was agreed that the competence, range of expertise and broader focus of the Committee could be useful in giving a broader perspective to that aspect of the work.

105. Further modalities were suggested whereby the Committee could contribute to international action for crime prevention. It might act as a co-ordinating body for the United Nations Social Defence Research Institute and the regional United Nations institutes and play an advisory role in technical co-operation efforts. It should have a more direct role not only in preparing the International Plan of Action and in providing advice that would be useful in the formulation of the medium-term plan for the period 1978-1981, but also in reviewing and evaluating their implementation, overseeing the data-collecting activities of the United Nations in the field of crime prevention and control, and ensuring co-ordination with such related international activities as drug abuse control and action against other transnational criminality.

106. Special attention was also drawn to the role of the Committee in connexion with the quinquennial United Nations Congresses on the Prevention of Crime and the Treatment of Offenders. It had to play an important role not only in the organization and substantive preparation of the Congresses but also in implementing their conclusions and recommendations in order to ensure that they did not remain dead letters. It was important that the Economic and Social Council and the functional commissions involved should be apprised of the Committee's role and the requirements that had to be met in order to permit it to function effectively. Under existing conditions, it was difficult to see how the mandates entrusted to the Committee by the Economic and Social Council or other organs could be fulfilled without the necessary resources.

107. The Committee strongly recommended, in view of its increasing responsibilities, that appropriate action should be taken to provide for annual sessions of the Committee in order to enable it to deal more effectively with its increased workload, which reflected the growing concern of the world community about the social and economic burden that crime imposed on the citizens of many countries.

108. The following matters deserved particularly urgent consideration:

- (a) The trends in prison population;
- (b) The extent and consequences of economic criminality;
- (c) The thorough revision of the Standard Minimum Rules for the Treatment of Prisoners;
- (d) The further implementation of General Assembly resolution 3452 (XXX); and
- (e) The elaboration of a code for judicial personnel.

109. Some members suggested that late August or early September would be the most convenient time for the Committee to hold its session, in consideration of the work commitments of most of the experts.

110. It was also stressed that the Committee should meet in places other than Headquarters, since that would increase the impact of the Committee's work in various regions. It was suggested that the Committee's next session could be convened at Bangkok, where the necessary facilities were available at the offices of the Economic and Social Commission for Asia and the Pacific.

XI. ORGANIZATION OF THE SESSION

111. The Committee on Crime Prevention and Control held its fourth session at United Nations Headquarters from 21 June to 2 July 1976. The session was opened by the Assistant Secretary-General for Social Development and Humanitarian Affairs, who made a statement on the work of the Committee.

112. The session was attended by the following members of the Committee: 18/ Tolani Asuni (Nigeria), Nils Christie (Norway), Mustafa El-Augli (Lebanon), Marcel Ette Bogui (Ivory Coast), Sergio García Ramírez (Mexico), Giuseppe di Gennaro (Italy), Sa'id Hekmat (Iran), Wojciech Michalski (Poland), Jorge A. Montero Castro (Costa Rica), Sir Arthur Peterson (United Kingdom of Great Britain and Northern Ireland), Ramanand P. Singh (Nepal), Richard W. Velde (United States of America) and Yip Yat-Hoong (Malaysia).

113. The meeting was also attended by observers from Australia, Bolivia, Canada, France, Federal Republic of Germany, Greece, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America.

114. The following units of the United Nations were represented: the Office of Inter-Agency Affairs and Co-ordination, the Division of Narcotic Drugs, the Division of Human Rights, the United Nations Social Defence Research Institute and the United Nations Asia and Far East Institute. The following specialized agencies were also represented: the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization. Three intergovernmental organizations were represented: the Council of Europe, the International Criminal Police Organization (INTERPOL) and the League of Arab States.

18/ Boris Alekseevich Viktorov (Union of Soviet Socialist Republics), member of the Committee, did not attend the session. Maurice Aydalot (France) resigned from the membership of the Committee prior to the session.

115. The following non-governmental organizations were represented: Amnesty International, the International Association of Penal Law, the International Association of Youth Magistrates, the International Commission of Jurists, the International Council on Alcoholism and Addictions, the International Federation of Women Lawyers, the International League for Human Rights, the International of Security Companies, the International Police Association, the International Prisoners Aid Association, the International Society of Social Defence, the International Union for Child Welfare, the Salvation Army, the Société internationale de prophylaxie criminelle, the World Medical Association and International Federation of Free Trade Unions.

116. The International Penal and Penitentiary Foundation was also represented.

117. The Committee unanimously elected the following officers:

Chairman:	Giuseppe di Gennaro (Italy)
First Vice-Chairman:	Jorge A. Montero Castro (Costa Rica)
Second Vice-Chairman:	Ramanand P. Singh (Nepal)
Third Vice-Chairman:	Wojciech Michalski (Poland)
Rapporteur:	Tolani Asuni (Nigeria)

118. At its first meeting, in considering its provisional agenda (E/AC.57/22) the Committee accepted the proposed changes (E/AC.57/22/Add.1) and adopted the amendments contained in annex I to the present report. The documents before the Committee at its fourth session are listed in annex III below.

Annex I

AGENDA

1. Election of officers
2. Adoption of the agenda
3. Report of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
4. Methods and ways likely to be most effective in preventing crime and improving the treatment of offenders /International Plan of Action/
5. Progress report on United Nations activities in crime prevention and control, including the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the medium-term plan for the period 1978-1981
6. Code of conduct for law enforcement officials
7. Human rights in the administration of justice
8. The range of application and the implementation of the Standard Minimum Rules for the Treatment of Prisoners
9. Review of the rules of procedure of the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders
10. Consideration of the provisional agenda for the fifth session of the Committee
11. Adoption of the Committee's report

Annex II

PROVISIONAL AGENDA FOR THE FIFTH SESSION

1. Election of officers
2. Adoption of the agenda
3. Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

The Congress, which is held every five years in accordance with General Assembly resolution 415 (V) of 1 December 1950, will be convened at Sydney, Australia in August 1980. In its consideration of the provisional agenda of the Congress, the Committee will take into account the views of such regional preparatory meetings on this item as may have taken place. The Committee will also consider all the preparatory arrangements, including the date, participation and other procedural matters relating thereto.

4. Programme for the biennium 1978-1979 and the medium-term plan for the period 1980-1983 and progress report on United Nations activities in crime prevention and the treatment of offenders during the period from July 1976 to June 1978

The Committee will have before it the programme for the biennium 1978-1979 and the medium-term plan for the period 1980-1983, as well as a report on the global and regional implementation of the programme on the prevention of crime and the treatment of offenders during the period from July 1976 to June 1978. In particular, the following matters may be considered:

Monitoring crime trends and crime prevention policies;

Code of judicial ethics;

Prison population trends;

Economic criminality.

5. Capital punishment

By resolution 1930 (LVIII), the Economic and Social Council requested the Committee to study, with the co-operation of the United Nations Social Defence Research Institute and other research centres, ways to analyse existing trends and to stimulate studies on this matter. The Committee will have before it a report based on attitudes of Member States in the field of capital punishment.

6. Incorporation of crime prevention policies in educational and vocational training programmes

The Committee will receive a manual based on this project, which falls under programme activity 8.2 of the programme budget for the biennium 1976-1977. a/

7. Guidelines for linking the rehabilitation of offenders to related social services

The Committee will receive a report on this project, which falls under activity 8.3 of the programme budget for the biennium 1976-1977. a/

8. The incidence of female criminality, including prostitution and traffic of women, and equal participation of women in the criminal justice system

The Committee will have before it a report based on a survey conducted on this topic under paragraph 1771 (d) and (e) of the Medium-Term Plan for 1978-1981 b/ following the relevant recommendations of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders c/ and of the World Conference of the International Women's Year. d/

9. Review of the rules of procedures of the United Nations congresses on the prevention of crime and the treatment of offenders

The Fifth Congress requested the Committee to review the rules of procedures of the quinquennial congresses with a view to making them conform to current practice in other United Nations bodies. The Committee will have before it a note prepared by the Secretariat.

10. Consideration of the provisional agenda of the sixth session of the Committee

11. Adoption of the report of the Committee

a/ Official Records of the General Assembly, Thirtieth Session, Supplement No. 6, vol. II, sect. 5A.

b/ Ibid., Thirty-first Session, Supplement No. 6A, vol. I.

c/ United Nations publication, Sales No. E.76.IV.2, paras. 18-19.

d/ United Nations publications, Sales No. E.76.IV.1.

Annex III

LIST OF DOCUMENTS BEFORE THE COMMITTEE ON CRIME PREVENTION
AND CONTROL AT ITS FOURTH SESSION

<u>Symbol</u>	<u>Agenda item</u>	<u>Title</u>
E/AC.51/SR.435	5	Summary record of the 435th meeting of the Committee for Programme and Co-ordination, held on 27 May 1976
A/CONF.56/10	3	Report of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders subsequently issued as a United Nations publication (Sales No. E.76.IV.2)
E/AC.57/22 and Add.1	2	Provisional agenda
E/AC.57/23	4	Methods and ways likely to be most effective in preventing crime and improving the treatment of offenders /International Plan of Action/: note by the Secretary-General
E/AC.57/24 and Add.1	7	Human rights in the administration of justice: note by the Secretary-General
E/AC.57/25	6	Code of conduct for law enforcement officials: note by the Secretary-General
E/AC.57/26	9	Review of the rules of procedure of the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders: note by the Secretariat
E/AC.57/27	5	Progress report on United Nations activities in crime prevention and control: report of the Secretary-General
E/AC.57/27/Add.1	5	Progress report on United Nations activities in crime prevention and control: the report of the Secretary-General (Topics for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders)

<u>Symbol</u>	<u>Agenda item</u>	<u>Title</u>
E/AC.57/27/Add.2	5	Progress report on United Nations activities in crime prevention and control: report of the Secretary-General. (Chap. XXII, programme 1, subprogramme 3, of the medium-term plan for the period 1978-1981)
E/AC.57/28	8	The range of application and the implementation of the Standard Minimum Rules for the Treatment of Prisoners: note by the Secretary-General
E/AC.57/29	2	Agenda as adopted by the Committee
E/AC.57/INF/1		List of documents before the Committee
E/AC.57/L.3 and Add.1-8	11	Draft report of the Committee
E/AC.57/L.4	4	Draft resolution proposed by Ramanand Singh
E/AC.57/L.5	3	Draft resolution proposed by Mustafa El-Augli
E/AC.57/L.6	6	Draft code of conduct for law enforcement officials as agreed by the Committee: text for second reading
E/AC.57/L.7	4, 11	Methods and ways likely to be most effective in preventing crime and improving the treatment of offenders <u>/International Plan of Action/</u> : draft report of the Committee on Crime Prevention and Control: text for second reading
E/AC.57/L.8	10	Consideration of the provisional agenda for the fifth session of the Committee: draft provisional agenda
E/AC.57/NGO/1	8	Statement submitted by the International Commission of Jurists

<u>Symbol</u>	<u>Agenda item</u>	<u>Title</u>
E/AC.57/NGO/2	6	Statement submitted by Amnesty International
Conference room paper No. 1	5	Chapter I of the report of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Annex IV

METHODS AND WAYS LIKELY TO BE MOST EFFECTIVE IN PREVENTING
CRIME AND IMPROVING THE TREATMENT OF OFFENDERS
/INTERNATIONAL PLAN OF ACTION/

CONTENTS

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INTRODUCTION

1. By resolution 3021 (XXVII), adopted on 18 December 1972, the General Assembly instructed the Committee on Crime Prevention and Control to submit a report to it at the thirty-first session, through the Economic and Social Council, on methods and ways likely to be most effective in preventing crime and improving the treatment of offenders, and to make recommendations on measures appropriate in such areas as law enforcement, judicial procedures and correctional practices. a/ Thus at its second session, in 1973, the Committee discussed the matter and decided to deal with the task by organizing itself into four working groups that would examine new and special problems of crime, correctional practices, law enforcement and judicial procedures. The Committee, at its third session in 1974, incorporated the findings and recommendations of the working groups into its report on that session (E/CN.5/516-E/AC.57/21/Rev.1, chap. I). The present report is based on the Committee's previous work and on the conclusions of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders b/ and includes the final revisions made by the Committee at its fourth session. c/

2. It is the aim of this report to draw attention to those areas of crime prevention and control in which recommendations of the United Nations could achieve the greatest possible yield for the largest possible number of States. Most of the problems of crime prevention with which nations will be confronted within the next few decades are likely to be influenced by the side-effects of socio-economic development. The Committee has focused its attention on these issues with a view to creating standards, guidelines and measures for combating crime, and with emphasis on those crime problems which directly impede socio-economic development. The Committee wishes to review this report from time to time in order to reflect the changing requirements in the area of crime prevention and criminal justice.

I. GENERAL POLICY AND PLANNING CONSIDERATIONS

3. The gravity of the crime situation and the urgency of revitalized and reoriented action to cope with it were amply revealed at the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which was held at Geneva from 1 to 12 September 1975. The Congress emphasized that crime existed in all countries and had a pernicious effect in many, thereby impeding efforts to achieve more wholesome development. It also drew attention to the growing seriousness of certain crimes, especially those of a transnational character, and to the fact that the new forms and dimensions of such crimes required strengthened national and international action.

a/ The Economic and Social Council by resolution 1924 (LVIII) decided to postpone consideration of this report to the sixty-second session and invited the General Assembly to postpone the consideration of the question to the thirty-second session.

b/ For the report of the Congress, see United Nations publication, Sales No. 76.IV.2.

c/ See chap. III of the present report.

4. It would be particularly appropriate, therefore, for the United Nations to develop and make available to Governments suitable guidelines for more effective crime prevention policies in order to enable them to deal with the ever changing challenge of crime, particularly in view of the goals of the Second United Nations Development Decade, whose primary objective has been proclaimed to be the enhancement of the quality of life. This emphasis on the quality of life implies a sharper focus on goals and policies in crime prevention and better and more effective co-ordination with United Nations programmes in such related fields as education, health, social welfare, labour and others.

5. In this perspective, the planning of criminal policy, i.e., of the prevention of crime and of the treatment of offenders, should be part of national development planning. In order to achieve this, countries should establish, whenever possible, a body in charge of criminal policy planning, working in close connexion with the agency dealing with national development planning. If the creation of such a body is not feasible, Governments should appoint, among the members of the agency in charge of national development planning, professionals who are fully conversant with crime prevention and control, criminal justice matters and the treatment of offenders.

6. One of the major objectives of the work of the United Nations in the field of the prevention and control of crime has been the clarification of the relationship between crime prevention and socio-economic development. In this regard, the importance of incorporating crime prevention and control policies within comprehensive social and economic national planning has been stressed, together with that of increasing the equity and effectiveness of criminal justice systems and their component sectors through the elaboration, at the national and international levels, of standards, guidelines and measures, designed to prevent, control and alleviate the harmful consequences of crime. In fact, care should be taken not to affect the quality of life adversely by efforts to eradicate all criminality. Each nation should determine its own tolerance levels, in an attempt to reduce the excessive social cost which crime exacts, and of redistributing it more equitably among the different groups of society.

7. While emphasizing national responsibility in the formulation of crime prevention policies, international co-operation in this field is essential. Regional collaboration and exchange of research findings among culturally homogeneous countries as well as among those of different cultures is also very important. In this connexion, the regional and interregional United Nations research and training institutes in the field of crime prevention and control have an important role in providing guidance and stimulation in the development of an integrated approach to crime prevention, taking into account the specific resources, stages of development and ideological principles of different countries and regions, and in elaborating a framework for a more rational, equitable and effective approach to crime problems, based on international co-operation.

II. MEASURES AND MEANS FOR COMBATING SPECIAL FORMS OF CRIMINALITY

Changes in the forms and dimensions of criminality

8. In many countries, more and increasingly serious crimes are being committed. With technological progress, criminals are changing their methods and techniques, and consequently crime presents itself in new manifestations and modalities. Particularly noteworthy is the element of politicization of violent criminality. The spread of violence, especially among youth, often is the result of the threat or use of violence by persons in authority and the reaction it causes. In this situation the use of violence as a means of solving disputes becomes not only tolerated but accepted in practice.

9. As crime transcends national boundaries, it assumes new dimensions: illicit traffic in drugs and weapons, smuggling and other crimes related to international trade, and corrupt practices of transnational trading partners. Other forms of criminality, such as offences against consumers and offences causing pollution and the deterioration of the environment in many countries, victimize large sections of the population and impair the quality of life.

10. Conventional methods of dealing with new or changing forms and dimensions of criminality are frequently unsuccessful and sometimes even exacerbate the situation. Developmental progress and the achievement of a state of relative well-being with changing levels of tolerance and increasing social expectations often do not alleviate the crime problem.

11. Over-all reliable and comparable information on the success or failure of innovative crime prevention efforts is scarce or non-existent in most parts of the world. Even where such information is available, there is often insufficient capacity to utilize it in the broader framework of national policy and planning. Moreover, countries facing new crime problems sometimes attack them individually without first trying to benefit from comparable experiences of other countries, thereby wasting resources.

Measures and means for coping with criminality

12. Conventional measures of crime prevention and control, whether of classical or social defence orientation, have been subjected to increased criticism because of their apparent failure to solve the problem of criminality in modern societies. The world finds itself in turmoil and appears to be at a cross-roads, unsure of the direction to be taken and the policies to be adopted. While there is agreement that eradication of criminogenic factors is a goal worth pursuing, the more immediate question is that of dealing with crime affecting the citizenry of many countries. Few nations insist on pursuing retributive goals, while most admit to their disenchantment with the repressive policies of the past.

13. It should be recognized, therefore, that there is a need for a periodic reappraisal of the laws and a re-evaluation of the definition of what is prohibited, as well as a reassessment of the entire system of dealing with criminality. A balance should be established between the competing exigencies of extending jurisdiction over certain new forms of harmful behaviour and of limiting jurisdiction over other kinds of behaviour which have become tolerated if not approved. The system of sanctions equally should be subject to constant review.

14. For many kinds of behaviour that are not really harmful it is necessary to resort to methods of decriminalization, depenalization and diversion. By decriminalization is meant the legislative process that renders lawful certain acts previously prohibited by criminal law, while depenalization implies a legislative process by which certain criminal offences are converted into matters to be dealt with administratively or by civil agencies, thus eliminating or reducing the stigmatizing effect inherent in the criminal law and easing the burdens of the criminal courts. Diversion programmes are administrative means of reducing the number of persons going through the criminal justice process while at the same time attempting to interrupt the cycle of recidivism among certain offenders, without imposing the handicap of a criminal record and the contaminating effect of penal institutionalization.

15. In order to apply such alternative procedures and measures, the ways of coping with special offender groups, such as juveniles, non-dangerous offenders, and drug and alcohol abusers, should be reviewed, with due regard to human rights considerations, administrative limitations, availability of trained personnel, and choice of options by those concerned.

Special measures for special forms of criminality

16. In exploring specific remedial and preventive measures directed at combating certain serious forms of national and transnational criminality, attention should be given to the concern they cause at the national and international levels, to the wider socio-economic context in which they occur and, where appropriate, to the need to acquire any additional knowledge that can be helpful in planning specific means of coping with them.

17. In particular, the following propositions have been recognized:

(a) The emergence of new forms of criminality linked to the broad social, economic, political and technological changes that are taking place is undeniable. However, it might be more appropriate to speak of new modalities of crime rather than "new and special problems of crime";

(b) Efforts at coping with a particular type of criminality may involve different solutions. Public consensus on these solutions and on the basic values to be protected by law is essential not only for making social control more effective but also for ensuring the public co-operation that is necessary for the prevention and control of crime;

(c) A systematic, sustained effort is required in order to provide additional knowledge of the problems and processes involved for the purpose of formulating more effective policies and programmes. This means strengthening the capacity to gather, analyse and disseminate relevant information in the form that is most useful to Member States. It also means carrying out problem-related research, including pilot and demonstration projects with built-in evaluation schemes, and developing other approaches designed to increase the store of available knowledge. Such efforts should ultimately permit the elaboration of guidelines in areas of urgent concern;

(d) These guidelines should be directed at translating data into plans and programmes; adopting strategies for different cultural settings; developing strategies for dealing with new problems; and dealing with criminal justice issues within over-all sectoral and intersectoral planning.

18. International action in coming years should focus on a number of priority areas, which are causing increased concern in many parts of the world, among them economic criminality, violence of transnational and comparative international significance, interpersonal violence, criminality of the young, criminality associated with alcohol and drug abuse, and female criminality.

Economic criminality

19. Efforts to prevent criminality harmful to national economies and the international economic order reflect the growing concern of the international community. Many countries, and developing countries in particular, are extremely susceptible to crimes affecting the national economy, such as smuggling, foreign exchange "racketeering", illegal exportation of capital, works of art and other valuables, 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.

20. Measures against national and transnational criminality must take into account two main factors: (1) The scope of the criminal law relating to "crime and business" (organized crime, white-collar crime and corruption) and the usefulness of traditional criminal penalties as deterrents; and (2) the techniques used to control these forms of behaviour.

21. Measures which might be applied efficaciously, either as alternatives to or in conjunction with criminal sanctions, include the institution of various forms of civil or administrative remedies, the creation of special law-enforcement groups and the devising of new bureaucratic procedures directed towards formalizing decision-making and thus minimizing the opportunities for corruption. Moreover, for some forms of white-collar crime, changes in criminal procedure are needed in order to secure convictions.

22. More effective control over the abuse of economic power by national and transnational enterprises could be assisted by stricter regulation of their operations, including the establishment of securities and exchange commissions; greater participation of shareholders and workers in the affairs of major corporations and enterprises; the provision of more information about economic criminality through commissions of inquiry, consumer groups, labour unions and similar groups, in order to alert the public; and the development of an international code of conduct for transnational trading partners.

Violence of transnational and comparative international significance

23. The use of violence for the solution of transnational or international problems or situations of conflict has been increased also as a result of technological changes, in particular the vastly increased speed and ease of communication and transportation and the growing vulnerability of the means of transport. Among the most visible forms of these acts are hijacking (unlawful interference with aircraft in flight), kidnapping, the taking of hostages, and the threat to or destruction of public institutions and installations as well as cultural objects and premises, frequently by means of explosives, thus instilling fear and endangering public safety.

24. The real causes of acts of violence committed for purposes other than personal gain may be found in the very sources of discontent, including ethnic discrimination repression and denial of human rights. But where these forms of violence persist after redress of grievances or where they are committed for personal gain, agencies of criminal justice can successfully resort to such measures as extending universal jurisdiction to all such crimes and strengthening laws providing for extradition and international judicial assistance and co-operation, both at bilateral and multilateral levels. The view was expressed that it would be useful to strengthen, where possible, the technical co-operation of the International Criminal Police Organization (INTERPOL), especially by increasing both the number of nations participating and the scope of the mutual exchange of information; and, when deemed appropriate, to create the long-projected International Criminal Court, with effective enforcement mechanisms.

Interpersonal violence

25. In many parts of the world violent crimes, including homicides, assault, rape and robbery, are of great concern to contemporary society because they cause acute public alarm and a growing feeling of collective insecurity and anxiety, particularly among the citizens of some big cities. The analysis of the causes and effects of interpersonal violence, however, is sterile if it is not carried out in the broader context of the social, economic and political problems facing society in all its conflict-producing situations.

26. Finally, the problem of violent behaviour should receive priority consideration in the formulation and application of national policies of crime prevention. In particular, every effort should be made to prevent the development of social conditions conducive to violence, to devise legitimate ways for resolving conflicts, to increase the opportunities for constructive adjustment to the social environment and to limit the possibility of inclination towards recourse to violence in interpersonal or international conflict situations by the creation of strong controls on the illegal possession, production and distribution of firearms.

Criminality of the young

27. The proportion of youth in the population, while decreasing in some countries, is continuing to increase in many parts of the world and the proportion of young offenders among the total offender population is also increasing in many areas. A diversity of factors, seemingly varying with time, place and culture, have been linked to this increase. In particular, there is concern about the spread of violence among youth, and the capacity of indigenous and primary organs of social control - such as the family, community, school and religious and social organizations - to deal with it. The diminishing role of such organizations in social control has exacerbated the process of alienation and propensity to delinquency. This serious problem of increased delinquency poses new challenges to the general system of education, social services and juvenile justice.

28. While the establishment of separate systems of juvenile justice has generally been credited with a humanization of the process of dealing with juvenile delinquency, doubts have increasingly been expressed regarding the effectiveness of such systems. In addition, questions have been raised regarding the ability of the adjudicatory system of juvenile justice to protect the rights of those adjudicated as delinquents. Consequently, it is incumbent upon the international community to exchange information on ways of dealing with youthful offenders, and with the prevention of juvenile delinquency in ways which would be not only more effective and efficient, but also especially concerned with ensuring the rights of young persons. The emphasis should be placed upon the role of indigenous social institutions and organizations, where these are still intact, and on the use of surrogate social institutions, such as public education and community organizations. If successful, such efforts could lead eventually to a reduction in adult criminality.

Criminality associated with alcohol and drug abuse

29. Alcoholism and drug abuse are among the more troublesome problems of criminal justice in many countries. But frequently criminal justice measures have at best a superficial impact on the situation. More important are preventive measures directed towards lessening the need to resort to drug abuse. Primary prevention is preferable to remedial action, but whenever alcohol and drug abuse becomes a health and social problem, preference should be given to measures for the treatment and social reintegration of drug abusers and addicts.

30. Resort to traditional criminal justice methods should be restricted to the prevention and control of the illicit traffic in drugs and of crimes committed in order to obtain them. Such measures should include the implementation of the international conventions on judicial assistance and the improvement of procedures so as to ensure that convicted traffickers do not escape extradition and, if they succeed in remaining abroad, that they serve their sentence in the country of refuge; the improvement of mechanisms for expeditiously providing information on drug offenders and drug traffic; the strengthening of all forms of border control; recognition of the need for ensuring that national drug policies do not adversely affect the drug control situation in other countries or the international community in general; and the adherence of all Governments to the international drug conventions and their full co-operation with the international bodies for the prevention and control of drug abuse and illicit drug traffic.

Female criminality

31. Available evidence indicates that in a number of countries the female crime rate has increased much faster than the male crime rate during the past decade. While for some societies there appears to be a certain correlation between increased opportunities and the consequent subjection of women to the same stresses and strains to which men had been subjected traditionally, it has been claimed for other societies that increases in female criminality are related to female frustration at the lack of civil and political rights. Because there are few accurate and internationally comparable data on female criminality, considerably more research should be conducted in this field before any conclusions that are useful for planners of Member States can be reached. Controlled scientific studies should be undertaken on the interrelationship among socio-economic development, the integration of women into national economic life, and female criminality. Such studies should focus on comparisons of countries with different experiences and trends in female criminality; the extent and causes of differential treatment of women by the legal and the criminal justice systems; the experiences in dealing with pre-delinquent and delinquent behaviour of women and children outside the criminal justice system; and the success and failure of counter-measures in general. Whatever the outcome of such studies, care should be taken to preclude the possibility of their use in attempts to prevent women from participating fully and equally in the social and economic development of their nations.

International co-operation

32. Since crime and the human suffering it produces threaten the well-being of individuals and societies throughout the world, far more effective international co-operation, directed towards the sharing of common experiences, is called for. A system must be established for the effective collection, analysis and dissemination of reliable and internationally comparable data in order to facilitate the task of identifying those crime prevention policies that are effective. This will be essential for the development and elaboration of guidelines for crime prevention policies and planning strategies in specific areas of common international concern.

/...

33. Such a system would include a more efficient functioning and more extensive network of interregional and regional bilateral institutes and programmes, with the capacity to initiate relevant research on a regional and interregional basis and in co-operation with national research institutions whenever possible. The results of such research should find their way into both national and international crime prevention and criminal justice strategies, mainly through the training of policy makers and planners of criminal justice, who, in turn, could then train others in their home countries.

III. GUIDELINES AND STANDARDS FOR THE ADMINISTRATION OF CRIMINAL JUSTICE

Existing instruments and future objectives

34. In most countries the different subsystems of the criminal justice system are operating relatively independently of each other and often at cross-purposes. More coherent and more clearly articulated goals would, in themselves, help to achieve a more unified approach. Successful planning, rather than providing more of the same (more police, more courts, more prisons and so on), should focus on the consolidation of available elements and the establishment of more integrated criminal justice operations.

35. The creation of a planning and co-ordinating body for this purpose would be of particular value, not only in order to increase understanding between the different subsystems, but in order to improve resource allocation and the development of research programmes. This might take various forms - which would need to have regard, among other things, to the constitutional structure of different countries such as:

(a) A special agency charged with the responsibility for developing new methods of crime prevention and treatment of offenders by providing financial assistance to law enforcement agencies,

(b) A planning unit within the governmental service, which should include representatives of those concerned with criminal justice, corrections and the police, and should have a close liaison with those concerned with criminological research and statistics, or

(c) An advisory group consisting of non-governmental experts of different disciplines and with experience in all fields of law enforcement and criminal justice.

Whatever form the planning body may take, it should also play a role in international and regional co-operation in crime prevention.

36. The United Nations has already accumulated a large and important body of knowledge and experience in the field of the administration of justice, through the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Standard Minimum Rules for the Treatment of Prisoners, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Draft Principles on Freedom from Arbitrary Arrest and Detention, the Principles on Equality in the Administration of Justice and so on. The general principles contained in these basic instruments have affected or have been included in the legislation of a large number of countries. However, the gap between what ought to be and what really is, is still considerable. One of the main goals of the United Nations should be the elaboration of guidelines for increased incorporation of these principles and rules in national legislation and the establishment of criteria and standards for their implementation and practical application, taking into account national and regional differences and current theories and practices in the field.

Law enforcement

The role of the police

37. As a result of the rapidly rising crime rates in many countries, attention has been focused on the role of the police and the effectiveness of law enforcement agencies in dealing with both traditional forms of criminal activity and new forms and dimensions of deviant behaviour.

38. Notwithstanding the many differences which exist between the organizational structure of police forces in various regions of the world, two problems in particular seem to be common to all of them. The first is the ambivalence in what the public expects of the police. The desire for law and order on the one hand, and the protection of civil rights, on the other, vie for balance in the equal demands of the public for greater police efficiency and, at the same time, greater police restraint. The second problem is the concern demonstrated by the police themselves through their efforts to improve their own professional knowledge. This effort includes the creation of means of evaluation of their own performance and the encouragement of higher standards of education and training in order to cope more effectively with the complexities of modern law enforcement. While there is much that can be done by the police to raise their levels of performance, the ultimate success of law enforcement depends on the co-ordination of the functions of the courts, correctional institutions and release systems as component and interdependent segments of the criminal justice system.

39. With the increased complexities of the socio-economic structures in both developing and developed countries, law enforcement must both improve professionalization rapidly and pay continuous attention to human rights considerations. Moreover, the need to balance human rights with the essential requirements of order and the protection of persons against interference by others must also be stressed.

Guidelines

40. Professionalization can take several forms: greater technical expertise in dealing with modern forms of criminality; improved training in law procedures and, human rights principles to deal with ever more complex legal regulations; and development of attitudes and norms of conduct necessary to make judgements and exercise discretion as they are required of professionals.
41. Professionalization must therefore rely on improved recruitment and training. Wherever possible, geographically contiguous or culturally related countries may have to pool their resources for the establishment of common training courses on specific topics and through bilateral or multilateral mutual aid.
42. Professionalization carries with it the danger of alienating the professional from the community he or she must serve. The experience of many countries indicates that, as professionalization of law enforcement is strengthened, increased efforts must be made to keep the police in touch with the community they are to serve. The success of the law enforcement profession can be achieved only if it shares the values of the community it is designed to serve and if the law enforcement profession is popularly accepted. This requires greater efforts to achieve popular participation in most countries. In this regard, particular attention should be given to the arrangements for dealing with complaints by individual members of the community about police behaviour. It may be desirable that, in addition to any disciplinary procedures provided for within the police service, such complaints should be investigated by an independent body whose findings would deserve the confidence of the community.
43. Greater international co-operation in all phases of police work is desirable not only to deal with criminality that crosses international boundaries but also to avoid repetition of costly mistakes or duplication of efforts.
44. Other conclusions to be drawn pertain to the recruitment of women for police appointments. There is no evidence that women are less effective than men in the performance of most police functions; in fact, in some situations, including crisis situations involving family disputes, a female police officer may be even more effective than a male officer. The ultimate goal should be to provide complete equality between men and women in opportunities for recruitment, training, pay and promotion. The positive experience of nations that have moved in the direction of parity and equality in the employment of women in the police should be made known everywhere so that it may help to overcome hesitation and prejudice which stand in the way of equal opportunities for women in police work.

Standards

45. The need for an international code of conduct for law enforcement officials has been widely recognized. The considerable amount of preparatory work that has been undertaken on this subject has enabled the Committee to complete a draft code (see annex V below) for submission to the General Assembly at the thirty-second session,

as requested in General Assembly resolution 3453 (XXX). This code endeavours to deal realistically with the basic issues with which law enforcement officials are recurrently confronted in most countries, by setting standards to guard against corruption, excess of force or authority, and violence and brutality. On the basis of the experience gathered with the United Nations Standard Minimum Rules for the Treatment of Prisoners, a vigorous international programme to implement the Code everywhere must be inaugurated through publications, training courses, reporting and especially by incorporation in national legislation.

46. The role of private police and security agencies varies considerably from country to country. To the extent that they exist, it would be desirable that they at least be subject to a system of authorization by the Government and that they strive to co-operate closely with the official police services.

Judicial procedures

Judicial procedures and administration

47. Many countries, both developed and developing, are confronted with deficiencies in the administration of justice. Complaints pertain to overcrowded gaols and long court delays due to extensive use of pre-trial detention, the misuse of prosecutorial discretion, the complexity of evidentiary rules, the practice of plea negotiations, the framing and adjustment of charges, the lack of modern and adequate means and equipment, the insufficiency of appropriate and well-trained staff, the provision of legal safeguards for the accused, including legal aid for the indigent offender, the dilatory tactics adopted by both lawyers and prosecutors and the disparities in the sentencing procedures. These problems have a direct bearing on the question of crime prevention and control because they contribute to the disorganization and malfunctioning of the criminal justice system and to the violation of the human rights of the victim and the offender. In essence, they erode the effectiveness of the criminal justice system.

48. While recognizing the futility of formulating identical policies for countries differing widely in traditions and political, economic and social structures, stress should be laid on a number of common goals and aspirations, which include:

(a) The desirability of encouraging the trend away from merely retributive and repressive justice towards social justice and the employment of non-penal forms of social control;

(b) The need to re-evaluate constantly the administration of criminal justice with a view to keeping it attuned to changing social needs;

(c) The need to promote respect for human rights and the fundamental freedoms of persons involved;

(d) The importance of establishing and maintaining a co-ordinated system of criminal justice, which is sectorally and cross-sectorally integrated into national planning, with strong and effective support from the community; and

(e) The need for basing crime prevention policies, including changes in the functioning of the judicial system, on solid research.

Guidelines

49. A preliminary distinction should be made between the judicial system as an organization, with its practices, needs and resources, and the judicial system as a composite of formal rules that are both substantive and procedural. This approach will help to keep the system under continuous scrutiny and make it responsive to present and future social needs and the aspirations of the whole population, in an attempt at rationalization, planning and democratization. Rigorous evaluation, progressive experimentation and a strict assessment of results are the necessary steps to be accomplished before proposing changes.

50. From the organizational point of view, one of the major factors which has led to the present short-comings of the judicial system is the lack of an effective flow of information between the different components of the system. What is therefore urgently needed is detailed information regarding the flow of cases through the judicial process from beginning to end. This means that the system must be rendered more accountable, not only for the benefit of the operators but also for that of the public at large - victims, offenders and witnesses alike. The use of modern technology and procedures could also contribute to a better utilization of manpower in terms of need, resources, time and workloads. This, however, involves the allocation of considerable resources and therefore requires careful preliminary examination.

51. The functioning and workload of the system is determined also by the extent to which law is used for the solution of social problems. The increasing complexity of life in industrialized and urbanized societies has given rise to an excess of penal regulations. Thus, the overload of work is one of the principal factors challenging the capacity of the criminal justice system. The implementation of appropriate methods directed towards unburdening the criminal justice system of minor matters would permit the system to deal more effectively with serious criminality, without jeopardizing the rights of the victim and the defendants or the fundamental principles of criminal justice.

52. Judicial procedures should not only be simplified and made more expeditious but should also be rendered more efficacious and equitable, so as to reduce the social and economic costs of crime and crime control. This task is not an easy one, because it must take into account the diversity of judicial and procedural systems in the world (e.g., adversary, accusatorial, inquisitorial and customary), their underlying ideologies and their historical and socio-political developments. However, close comparative scrutiny of the various systems of administration of justice reveals that certain essential formal steps are always present: the gathering of evidence and the formulation of the complaint (information), arrest, preliminary investigation, arraignment, presentation of evidence and defence, judgement, appeal and other forms of judicial recourse. It must be the aim of all reform efforts to reduce unnecessary delays in these essential steps without infringing the fundamental rights of those affected.

53. The gathering of evidence and filing of the accusation, complaint or information, arrest and preliminary investigation are often steps which fall within the jurisdiction of law enforcement agencies, although control by the judiciary is usually required. Closer collaboration between these two sectors of the criminal justice system is therefore needed.

54. Detention pending trial should be an exceptional procedure. The law should determine the conditions of and fix maximum limits for detention pending trial and require the grounds for extension of the warrant of arrest to be examined by the judicial authorities. Pre-trial release should be more easily available. Bail should not be used to discriminate against the poor. Release on one's own recognizance and other options based on the principles of equity and effectiveness should be applied more frequently. It would also be advantageous to replace pre-trial detention with the imposition by the judge of conditions under which the accused person would remain at liberty.

55. An efficient and fair criminal policy should be based on increased diversification at all levels of the penal process. Procedures could be accelerated by the specialization of judges or courts. The range of sanctions should be enlarged by the creation of measures in lieu of short prison terms or by the revision of existing penalties, and care should be taken to ensure that the stigmatizing effects of imprisonment do not impede the social rehabilitation of the offender.

56. Any form of discrimination or inequality based on class, sex, race, religion, language, status, position and income of accused persons should be eliminated at all stages of judicial procedures. Means of controlling sentencing disparities should be devised, and the number of appeals and revisions could, where appropriate, be reduced. d/

57. The equal participation of women and minority groups in the judicial administration should be assured and seminars for judges and prosecutors should be organized.

58. Finally, the administration of justice should become the concern of every citizen. This would imply an extended participation of the community in the judicial process, depending on specific historic traditions and diverse political and social options. Popular participation in the administration of criminal justice assumes many forms, including the use of a judicial ombudsman, magistrates and justices of the peace, comradeship courts and conciliation and arbitration boards and jurors and assessors selected from the local community. Experimentation with all of these options deserves increased attention.

d/ See Study of Equality in the Administration of Justice (United Nations publication, Sales No. E.71.XIV.3), chaps. IV and V.

Standards

59. The study of judicial competence and activity as social and professional issues, with special reference to the humanization of judicial proceedings, the selection and training of judges and prosecutors, the exercise of discretion in sentencing and methods for the control of such discretion in the interest of more egalitarian justice are all areas worth exploring with a view to developing a comprehensive network of United Nations standards relating to criminal justice. In particular, such studies should lead to the completion of standards of judicial ethics.

Correctional practices

Problems of correction today

60. The debate concerning the purposes to be achieved by imprisonment and on the role and functions of prison in modern societies has reached the point at which concepts and methods that were universally accepted in the past are now being challenged and disputed. In spite of all these debates and discussions, and despite the fact that there is a growing recourse to alternatives to imprisonment and the more extensive use of community correctional programmes, comparative figures on the current use of imprisonment indicate that this form of penalty continues to be widely used. Whatever the underlying reasons for the use of imprisonment, or whatever the expectations of what prisons can or should do, there will presumably remain a need to protect society from persons so dangerous as to require custody, supervision and control. The main task, in this perspective, becomes that of reducing as much as possible the number of persons requiring such an ultimate form of control and of devising for all others community alternatives to institutional corrections. Those detained should only be held in compliance with human rights standards.

61. These problems have been a concern of the United Nations since the inception of its activities. The work of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders led to the main conclusion that, together with an increased effort directed at the implementation and dissemination of the Standard Minimum Rules for the Treatment of Prisoners, there was also a need to reassess the purposes as well as the effectiveness of correctional systems in general and of various forms of imprisonment in particular. This should be undertaken bearing in mind that the use of imprisonment should be restricted to those offenders who need to be neutralized in the interest of public safety and for the protection of society. Provision should also be made for a broad range of supporting after-care services and greater community involvement in facilitating the reintegration of the offender into the community. Moreover, the Congress laid stress on the need to develop new rules for the treatment of offenders in the community and to strengthen inmate grievance procedures by giving prisoners the right of recourse to an independent authority both at the national and international level. e/

e/ See Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (United Nations publication, Sales No. 76.IV.2).

Guidelines

62. In view of the serious disadvantages of imprisonment in terms of the social and economic cost involved, of the low rate of success in terms of rehabilitation and of its contaminating effect, efforts should be made to develop and extend other correctional and non-correctional measures, such as the provision of special treatment for offenders who require it; parole and early release programmes combined with supervision designed to reintegrate the offender into the community; semi-custodial methods of treatment, including hostels, half-way houses and training centres; and non-custodial treatment including fines and other economic sanctions, probation and work release. This implies that correctional services should be linked to the community in every phase of their operations. It implies, also, the involvement of community groups and of individual citizens in the initiation and realization of required changes in correctional policies, procedures and programmes.

63. To the extent that imprisonment continues to be necessary as the ultimate sanction against those who cannot be left to other alternatives, suitable buildings and grounds to assure satisfactory living conditions should be provided, as well as appropriate equipment and opportunities for constructive, useful work, and an appropriate variety of programmes employing well-trained manpower. In addition, correctional institutions should be conceived as part of a complete system in which intramural and extramural activities are organically integrated. If imprisonment is to be reserved for really serious offenders because of their recognized danger to society, attention should be given to the special problems of control and containment created by this minority of difficult prisoners who might eventually become the prison majority and thus pose a threat to the safety of the institution, to other inmates and to staff members. The central question in this regard is that of finding a balance between the necessary degree of security so as to assure the protection of persons from themselves and others, and the exigency of providing an environment that is not destructive of human dignity or of the human spirit.

64. No matter what degree of security is required, humane treatment of prisoners is essential. In this respect, adequate supervision of the application of sanctions, including provision for the observance of basic rights should be provided. The achievement of this would be helped by the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners. National and international attention should, therefore, be given to institutions and procedures designed to promote the observance of the basic human rights, particularly the Standard Minimum Rules for the Treatment of Prisoners. Redress of grievances, through judicial supervision, the designation of ombudsmen and the submission of complaints to appropriate national and international bodies, such as the European Court of Human Rights, must be assured.

Standards

65. The Standard Minimum Rules for the Treatment of Prisoners can be regarded as a first attempt to create international standards in the field of corrections. The

General Assembly's Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was adopted by resolution 3452 (XXX), is a further important step in this regard. Pending possible future revision of the Standard Minimum Rules, there is a need for suitable commentaries, drafted with special attention to regional considerations and cultural factors, in order to provide greater flexibility in the application of the Rules in accordance with current correctional policies and practices.

66. The most important task, for the time being, remains that of the effective implementation of the Rules and of their wider dissemination. In this regard, the Committee, pursuant to Economic and Social Council resolution 1993 (LX), paragraph 6, has fulfilled its task of formulating a set of procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners (see chap. I, sect. A, above and annex VI below). Pilot studies and demonstration projects on the application of the Rules should be conducted. Evaluation schemes should be devised and built into these projects to determine how obstacles can be overcome. Such efforts should permit an evaluation and reassessment of the new implementation procedures.

67. There is a need to develop new Rules for the treatment of offenders in the community or in community-based treatment facilities because of the increasing reliance on non-custodial treatment measures and on alternatives to detention. In fact, even if community-based measures are less severe and more humane than the deprivation of liberty, they also have serious consequences and implications. The conditions imposed on the resident of a community-based treatment facility and on a probationer or parolee may be excessively stringent and may be either unjustified by correctional needs or contrary to elementary human rights. Restrictions on the exercise of certain activities or occupations imposed upon offenders may adversely affect the readjustment of the offender to community life. Although the task of elaborating new rules is complicated and difficult, it can be undertaken by the United Nations by approaching the issue in two phases: the first would be concerned with the articulation of principles and standards for programmes which are alternatives to imprisonment, while the second might address itself to guidelines concerning the content of the programmes.

68. The growing number of nationals sentenced in countries other than their own calls for international co-operation in order to establish procedures providing for the return of persons convicted of crimes abroad to their place of residence in order to serve the sentence, thereby facilitating the process of reintegration into society. The United Nations could play a role in this effort, with the goal of establishing an international convention in this field or of suggesting a model for bilateral or multilateral agreements.

The role of the public

69. The efficiency and effectiveness of the criminal justice system will increase if the community participates actively in the functioning of the system. In fact, the criminal justice system should meet the public expectations of fairness,

efficiency and equity. More information on and awareness of the numerous forms of individual and collective action and of their positive results can improve and guide public participation in preventing criminality.

70. The involvement of the community in the earliest stages of planning of the criminal justice system is a prerequisite for obtaining public support in the implementation of programmes aimed at preventing and controlling crime and resocializing offenders.

71. At the police level, the required collaboration of the community may be expected to rise as confidence in the protective functions of law enforcement officials and agencies is strengthened. This can be attained, inter alia, by establishing a continuous flow of information that will help the citizens to understand and appreciate the difficult work of the police.

72. At the judicial level, the participation of the public is essential in order to ensure that the courts are provided with the evidence of persons who have been victims of or witnesses to particular crimes.

73. At the correctional level, the participation of the community is a major means of reducing the isolation of the prison world and of contributing to the process of resocialization of the offender. Moreover, the active participation of the public is of paramount importance in carrying out extramural correctional programmes.

74. The collaboration and the involvement of the community are, finally, an essential condition - and constitute the natural framework - for the effective reintegration of the offender into the society. In this respect, public tolerance and acceptance should be increased with a view to counteracting the stigmatizing effects of penal sanctions.

Annex V

DRAFT CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

Article 1

Law enforcement officials must at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Commentary:

(a) The term law enforcement official includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest and detention;

(b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by state security forces, the definition of law enforcement officials shall be regarded as including officers of such services;

(c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid;

(d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

Article 2

In the performance of their duty, law enforcement officials should respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary:

(a) The human rights in question derive from national and international law. The human rights under international law are guaranteed under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Standard Minimum Rules for the Treatment of Prisoners, the Vienna Convention on Consular Relations, and other international instruments;

(b) National commentaries to this provision should identify regional or national provisions identifying these rights.

Article 3

Law enforcement officials may never use more force than necessary in the performance of their duty.

Commentary:

(a) This provision emphasizes that the use of force by law enforcement officials should be exceptional;

(b) While it implies that law enforcement officials may be authorized to use such force as is reasonable under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, any force used beyond what is essential for these purposes is not tolerable;

(c) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case, however, should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.

Article 4

Matters of a confidential nature in the possession of law enforcement officials should be kept confidential, unless the performance of duty, or the needs of justice, require otherwise.

Commentary:

By the nature of their duties, law enforcement officials obtain information which may be potentially harmful to the interests, and especially the reputation, of others. By law, such information can be utilized only for the conduct of legal proceedings. Any divulgence not made in the performance of duty and not serving the needs of justice is improper.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Commentary:

(a) This prohibition derives from the General Assembly's Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which states that:

"[Such acts] are an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights [and other international human rights instruments]";

(b) The Declaration defines torture as follows:

"... torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners";

(c) The terms "cruel, inhuman or degrading treatment or punishment" have not been defined by the General Assembly, but should be interpreted to extend the widest possible protection against abuses, whether physical or mental;

(d) The provision is intended to cover all persons who are in any way involved in conduct covered by this provision.

Article 6

Law enforcement officials having custody of persons needing medical attention should secure such attention and take immediate action to meet the needs of the person in custody.

Commentary:

(a) "Medical attention" refers to services rendered by any medical personnel, including certified medical practitioners and paramedics. While in practice the medical personnel referred to is likely to be attached to the law enforcement operation, the provision should be understood to require law enforcement officials to take into account the judgement of medical personnel from outside the law enforcement operation. This envisages that the person in question has access to medical attention from other medical personnel, including such person's own physician;

(b) All medical personnel must act in conformity with principles of medical ethics.

Article 7

Law enforcement officials must refrain from and rigorously oppose and pursue all acts of corruption.

Commentary:

(a) Corruption is intolerable in all phases of life, particularly in the public service agencies. Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce their law against their own agents and within their own agencies;

(b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of or in connexion with one's duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.

Article 8

Law enforcement officials must refrain from and prevent and rigorously oppose all violations of this code by taking appropriate action, to the best of their capability. When violations have occurred, or can be expected to occur, law enforcement officials should report the matter within the chain of command, or take such other actions as are lawfully open to them, including, when necessary, the reporting to any agency with reviewing or remedial power.

Commentary:

(a) The provision seeks to preserve the balance between the need for internal discipline of the agency on which the public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other. A law enforcement official should report violations within the chain of command and take legal action outside the chain of command only when no other remedies are available;

(b) The term "agency with reviewing or remedial power" refers to any agency existing under national law, whether internal to the law enforcement agency, or independent thereof, with statutory, customary or other power to review grievances and complaints arising out of violations within the purview of this code;

(c) While in most countries such agencies are statutory bodies, in some countries the mass media may be regarded as performing similar complaint review functions so that a law enforcement official, on his own initiative, may be justified in bringing his report to public attention by such means, as a last resort, consistent with the laws and customs of the country in question.

Article 9

A law enforcement official who, in fulfilling the obligation of this code, erroneously exceeds the limits of law despite honest and conscientious assessment, is entitled to the full protection afforded by national law.

Article 10

A law enforcement official who complies with the provisions of this code deserves the respect, the full support and the collaboration of the community and of the law enforcement agency in which such official serves, as well as the support of the law enforcement profession.

Annex VI

PROCEDURES FOR THE EFFECTIVE IMPLEMENTATION OF THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS

Implementing procedures

Procedure 1

All States whose standards for the protection of all persons subjected to any form of detention or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment fall short of the Standard Minimum Rules for the Treatment of Prisoners are requested to adopt the Rules, subject to their adaptation and harmonization with the laws and culture of the adopting State, but without deviation from the spirit and purpose of the Rules.

Commentary:

The General Assembly recommended in resolution 2858 (XXVI) of 20 December 1971 that Member States implement the Standard Minimum Rules in the administration of penal and correctional institutions and reiterated the importance it placed thereon in resolution 3218 (XXIX) of 6 November 1974. Since some States may have standards that are more advanced than the Rules, specific adoption of the Rules is therefore not requested on the part of such States. Where States feel that the Rules need to be harmonized with their legal system and adapted to their culture, the emphasis is placed on the substance rather than the letter of the Rules.

Procedure 2

The Standard Minimum Rules or any modification thereof, when adopted, should be embodied in national legislation and other regulations and made available to all persons concerned with their application and execution in the criminal justice system, particularly to correctional personnel.

Commentary:

It is self-evident that if the Rules are to be implemented they must be widely circulated (see "Dissemination of information", procedures 6-9 below).

Procedure 3

In order that the Standard Minimum Rules may succeed in their purpose of humanizing criminal justice, they should also be made available to all prisoners and to all persons under detention, in a manner and form that is understandable to those confined.

/...

Commentary:

The requirement that the Rules be made available to the persons for whose protection they have been elaborated is indispensable. That was established in the four Geneva Conventions of 12 August 1949, a/ of which articles 47 of the first Convention, 48 of the second, 127 of the third and 144 of the fourth state in common:

"The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains."

Reporting system

Procedure 4

Member States shall inform the Secretary-General of the United Nations regularly of the extent of the implementation and the progress made with regard to the application of the Standard Minimum Rules by responding to the Secretary-General's questionnaire. The Secretary-General shall also invite the co-operation of the specialized agencies and of governmental and non-governmental organizations in the preparation of reports about the extent of implementation of the Standard Minimum Rules. In addition, the Secretary-General, in co-operation with Governments, shall prepare independent periodic reports on progress made with respect to the implementation of the Standard Minimum Rules.

Commentary:

It will be recalled that the Economic and Social Council, in resolution 663 C (XXIV) of 31 July 1957, recommended that the Secretary-General be informed every five years of the progress made with regard to the application of the Standard Minimum Rules and authorized the Secretary-General to make arrangements for the publication, as appropriate, of such information and to ask for supplementary information if necessary.

a/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

Procedure 5

As part of the information mentioned in procedure 4 above, Member States are requested to furnish the Secretary-General with:

(a) Copies or abstracts of all laws, regulations and administrative measures concerning the applicability of the Standard Minimum Rules to persons under detention and to places and programmes of detention;

(b) Statistics, data and descriptive material on detention programmes, detention personnel and the number of persons under detention in the various programmes and facilities.

Commentary:

This requirement is part of the existing mandate which is cited in the commentary on draft procedure 4 above. Even though the items of information requested herein are not specifically mentioned in the Rules, they are within the meaning of the survey authority. This request for information is analogous to the existing periodic reporting system on human rights originally established by the Economic and Social Council in resolution 624 B (XXII) of 1 August 1956. The Council also provided for a reporting procedure for the implementation of the Declaration on the Elimination of Discrimination against Women under resolution 1677 (LII) of 2 June 1972. The Single Convention on Narcotic Drugs of 30 March 1961 contains a reporting requirement and the reporting procedure is also an essential part of the International Convention on the Elimination of Racial Discrimination and the International Covenant on Civil and Political Rights.

Dissemination of informationProcedure 6

The Secretary-General shall disseminate the Standard Minimum Rules and the present implementing procedures in all the United Nations official languages and make them available to all Member States and non-governmental organizations concerned in order to ensure the widest reach of the Rules.

Commentary:

The need for the widest possible dissemination of the Standard Minimum Rules is self-evident. Close co-operation with all appropriate non-governmental organizations is important to secure more effective dissemination and implementation of the Rules. Therefore, the Secretariat shall maintain close contacts with such organizations and shall make relevant information and data available to them. It shall also encourage those

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organizations to disseminate information about the Standard Minimum Rules and the present implementing procedures.

Procedure 7

The Secretary-General shall disseminate to Member States periodic reports, including analytical summaries of his periodic surveys, reports of the Committee on Crime Prevention and Control, reports prepared for United Nations congresses on crime prevention and the reports of those congresses, scientific reports and other data as from time to time may be deemed necessary to further the implementation of the Standard Minimum Rules.

Commentary:

This procedure reflects the present practice of disseminating such reports as part of the documentation for the United Nations bodies concerned, as United Nations publications or as articles in the Yearbook on Human Rights and the International Review of Criminal Policy.

Procedure 8

The Secretary-General shall ensure the widest possible reference to and use of the text of the Standard Minimum Rules by the United Nations in all its relevant activities, publications and documentation.

Commentary:

This procedure is proposed in view of the fact that such inclusions or reference have not been consistently made in the past, as witnessed by the fact that the revised 1973 United Nations publication entitled Human Rights: A Compilation of International Instruments of the United Nations b/ does not contain the Standard Minimum Rules.

Procedure 9

As part of its technical assistance or development programme the United Nations shall:

(a) Aid Governments, at their request, in setting up and strengthening comprehensive correctional systems;

(b) Promote national and regional seminars and other meetings at the professional and non-professional levels to further the dissemination of the Standard Minimum Rules and the present implementing procedures;

b/ United Nations publication, Sales No. E.73.XIV.2.

(c) Strengthen substantive support to regional research and training institutes in crime prevention and criminal justice that are associated with the United Nations.

The regional research and training institutes in crime prevention and criminal justice, in co-operation with national institutions, shall develop curricula and training materials based on the Standard Minimum Rules and the present implementing procedures and suitable for use in criminal justice educational programmes at all levels as well as in specialized courses on human rights and other related subjects.

Commentary:

The purpose of procedure 9 is to ensure that the United Nations technical assistance programmes and the training activities of regional institutes are used as indirect instruments for the enforcement of the Standard Minimum Rules and the present procedures for implementation. Apart from regular training courses for correctional personnel, training manuals and the like, particularly at the policy-making level, provision should be made for expert advice on questions submitted by Member States, including an expert referral system to interested States.

The role of the Committee on Crime Prevention and Control

Procedure 10

The Committee on Crime Prevention and Control shall:

(a) Review from time to time, as may be needed, the Standard Minimum Rules and the present implementing procedures and recommended appropriate changes;

(b) Elaborate rules, standards and procedures applicable to emerging and new forms and methods of treatment of persons deprived of liberty;

(c) Make policy recommendations to the Secretary-General and the appropriate organs of the United Nations in the field of corrections.

Enforcement

Procedure 11

Nothing in these procedures is to be construed as precluding resort to any other means of enforcement available under international law or set forth by other United Nations bodies and agencies for redress of violations of human rights.

Procedure 12

Communications relating to violations of the Standard Minimum Rules for the Treatment of Prisoners may be communicated to the Secretary-General. Under existing procedures for dealing with communications relating to violations of human rights and fundamental freedoms, the Commission on Human Rights may consider particular situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights referred to it by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

Commentary:

The procedure is that established by the Economic and Social Council in resolution 1503 (XLVIII) of 27 May 1970.

Procedure 13

The Committee on Crime Prevention and Control shall assist the General Assembly and the Secretary-General, when requested, with recommendations relating to reports of ad hoc inquiry commissions, whenever they are appointed, with respect to matters pertaining to the Standard Minimum Rules and their application and implementation.
