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EIGHTH UNITED NATIONS CONGRESS  
ON THE PREVENTION OF CRIME  
AND THE TREATMENT OF OFFENDERS  
Havana, Cuba, 27 August-7 September 1990

AFRICAN REGIONAL PREPARATORY MEETING  
FOR THE EIGHTH UNITED NATIONS CONGRESS ON THE  
PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS  
Addis Ababa, Ethiopia, 5-9 June 1989

Report

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Corrigendum

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Starting with paragraph number 67, which should read 66, renumber remaining paragraphs in consecutive order. The last paragraph number of the document should read 105.

## RECOMMENDATION

1. The African Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, after thorough examination of the various issues concerning the five substantive topics of the provisional agenda of the Eighth Congress, as outlined in the discussion guide (A/CONF.144/PM.1) and in the reports of the five interregional preparatory meetings held at Vienna in 1988 (A/CONF.144/IPM.1-5), unanimously adopted the two resolutions presented below and recommended their submission, through the Committee on Crime Prevention and Control, to the Eighth Congress for further consideration and appropriate action.

### Resolution 1

#### International action against transnational crime

##### The African Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling the responsibilities assumed by the United Nations in the field of crime prevention and criminal justice under Economic and Social Council resolution 155(VII)C of 13 August 1948 and General Assembly resolution 415(V) of 1 December 1950,

Recalling also the Milan Plan of Action and the Guiding Principles on Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, a/ as well as all other relevant recommendations of the Seventh Congress,

Alarmed by the rapid increase of both conventional and transnational criminality, in its various forms, in many countries of the region, and the menace to social, economic and political stability that this trend represents,

Concerned about the growing danger and serious damage that transborder criminality, such as organized crime, illicit drug trafficking, illegal sales and smuggling of arms, terrorism, the flight of capital, illicit criminal transactions, white-collar and economic crime, corruption and environmental offences, can inflict upon national economies and the quality of life of all people, particularly in the African countries,

Aware that the magnitude of the external debt prevents African countries from allocating the necessary resources to counteract effectively the increased threat to economic and social well-being posed by criminality,

Noting with alarm that the African external debt situation worsened further in 1988 and is projected to become even more critical in 1989 and beyond,

Recognizing that the constraints imposed upon African countries by indebtedness are at the root of the grave deterioration of social and economic conditions and that these circumstances generate inordinate levels of white-collar and street crime,

Recognizing further that the inadequacies of past development policies in Africa and the pressures of recession, external debt and drought have produced sharp falls in living conditions, income distribution and employment opportunities in the region, as well as in health, nutrition and educational standards, thus contributing to the increase of the levels of traditional and new forms of criminality,

Bearing in mind that, under the United Nations Charter, Member States have contracted the obligation of establishing international co-operation as a means of solving international problems of an economic, social, cultural and humanitarian nature,

Convinced that the United Nations has a paramount role to play in co-ordinating and improving multilateral co-operation in the prevention and control of domestic and transborder criminality and that, for this purpose, the capacity of the United Nations Secretariat should be substantially reinforced as a matter of the highest priority, to enable it to extend technical assistance to countries in need and to stimulate programmes of international co-operation,

Aware of the added responsibilities of the United Nations Economic Commission for Africa in the field of crime prevention and criminal justice,

Concerned about the limited financial and human resources available to the Commission for the prosecution of this programme,

Noting with dismay the serious shortage of human and financial resources of the Crime Prevention and Criminal Justice Branch, which are grossly inadequate in the face of its enlarged responsibilities and expanded programme mandates, as well as the lack of any specific programme in the field of crime prevention and criminal justice in the programme of work of the Commission,

Mindful of the need to urgently strengthen the crime prevention and criminal justice programme, which is vital to improve international co-operation in this field, in accordance with the repeated resolutions of the General Assembly, the Economic and Social Council and the Committee on Crime Prevention and Control,

Conscious that Governments should join forces to prevent and substantially reduce the harmful consequences of transborder criminality, particularly organized crime, including illicit drug trafficking, terrorism, economic and white-collar crime, corruption, massive fraud and flight of capital, as well as offences against the environment,

Determined to take urgent action against these deleterious forms of criminality, which impose severe limitations on the achievement of harmonious and self-sustainable economic and social development in the region, as well as a constant threat to national security and harmonious relations among States,

1. Takes note with appreciation of the reports of the interregional preparatory meetings b/ and of the report of the Committee on Crime Prevention and Control, c/ at its tenth session, which should be commended for their outstanding work;

2. Praises the Committee on Crime Prevention and Control for its crucial role in the preparation of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as well as policy formulation and programme implementation in the field of crime prevention and criminal justice and recommends the upgrading of the status of the Committee to that of a Commission;

3. Endorses the recommendations contained in these reports, subject to the amendments proposed at this meeting, and expresses the desire that the Eighth Congress should take appropriate action towards their adoption;

4. Emphasizes the crucial importance of the proposed draft instruments and, in particular, the draft model agreement on the transfer of proceedings in criminal matters d/ and the draft model treaty on mutual assistance in criminal matters, the provisions of which constitute a much-needed foundation for more effective international co-operation in crime prevention;

5. Stresses the need for observing human and peoples' rights in the administration of justice, by ensuring the implementation of existing United Nations standards and norms, including those concerning the independence of the judiciary, the conduct of law enforcement officials, the protection of the rights of juveniles and of victims and the enhancement of the status and humane treatment of offenders, the observance of the principles enshrined in the African Charter on Human and People's Rights, the adoption of appropriate measures for the reduction of prison populations and the increased use of alternatives to imprisonment, which should be used only as a disposition of last resort;

6. Urges Governments to give due consideration to criminal justice management problems, the solution of which would contribute to better co-ordination of crime prevention and control activities nationally and locally, with the involvement of concerned community organizations and public participation, as well as to the regular exchange of relevant information and criminal justice data, which are essential not only for the functioning of the newly established United Nations criminal justice information network but also for the benefit of all countries of the region, in order to have a solid basis for decision-making and policy formulation;

7. Invites the Governments of the region to include crime prevention and criminal justice policies in the planning process, particularly when formulating national development plans, in order to reduce the human, social and economic costs associated with crime and delinquency, and to allocate adequate funds for the activities of the criminal justice system, giving appropriate attention to research and training;

8. Reaffirms the principle that in the process of financial structural adjustments it is essential to maintain and further uphold equity and justice as effective normative tools to achieve developmental goals while reducing the dangerous effects of crime and social disruption;

9. Underlines the hope that the Secretary-General will continue promoting enhanced technical co-operation in the field of crime prevention and criminal justice, in particular for the development of practical programmes of technical assistance to requesting countries, especially when these activities are included in national development plans, as well as in projects for bilateral and multilateral collaboration;

10. Encourages Governments, as well as relevant funding agencies and organizations, such as the Department of Technical Co-operation for Development, the United Nations Fund for Drug Abuse Control, the United Nations Development Programme and the World Bank, to provide adequate levels of financial support for technical co-operation projects in the field of crime prevention and criminal justice, including the provision of advisory services in this field with a view to fostering development conditions leading to lasting social peace and respect for fundamental human rights;

11. Recommends, accordingly, that additional financial and technical support should be provided by the international community in order to assist African countries in their efforts to identify, analyse, monitor and evaluate crime trends, to formulate effective crime prevention and control strategies in accordance with their national development plans, priorities and objectives, and to implement criminal justice policies in their pursuance of the provisions of the United Nations standards and norms;

12. Reiterates the profound commitment of the Governments of the region to the effective functioning of the United Nations crime prevention and criminal justice programme, wishing to see it become really adequate in assisting Governments to face serious and emerging crime problems, such as illicit drug abuse and traffic, smuggling and contraband, fraudulent transactions, massive currency manipulations, corruption and the dumping of toxic and radioactive wastes, both through specific projects of technical co-operation and through the formulation of new guidelines and standards on the prevention and control of such noxious phenomena;

13. Requests the Secretary-General of the United Nations and other related United Nations agencies, non-governmental organizations, and the international community at large to provide adequate and increased funding to the United Nations Economic Commission for Africa, in order to enable it to implement programmes for the prevention of crime and the treatment of offenders and to establish regional advisory services in crime prevention and criminal justice;

14. Considers it essential that resources commensurate with the high priority accorded to crime prevention and criminal justice by the international community should be allocated to this crucial United Nations programme and that organizational changes should be made, with adequate, increased funding from the regular budget, so as to positively affect the functioning of the Crime Prevention and Criminal Justice Branch of the Secretariat, making it thus more responsive to the compelling needs and urgent requirements of Member States;

15. Requests the Eighth Congress to identify priority areas for a new international convention on crime prevention and criminal justice co-operation, taking into account contemporary developments and newly emerging trends in this area, for consideration by the Ninth Congress, at an Intergovernmental Plenipotentiary Conference;

16. Also requests the Eighth Conference to give priority attention, under the topics of its agenda and on the basis of the recommendations of the Committee on Crime Prevention and Control at its tenth and eleventh sessions, to ways and means of further improving international co-operation in the field of crime prevention and criminal justice, including the regional and sub-regional levels, through appropriate reforms in the United Nations in order to strengthen the status, enhance the role and widen the scope of activities of the Crime Prevention and Criminal Justice Branch as the focal point of the multilateral approach and the provision of technical co-operation in the fight against crime, in the maintenance of the rule of law and in the pursuit of justice with full observance of human rights and, specifically, to upgrade it to the level of a Division, in order to enable it to address adequately the issue of crime prevention and criminal justice in all its ramifications.

Resolution 2

African Institute for the Prevention of Crime and  
the Treatment of Offenders

The African Regional Preparatory Meeting for the Eighth United  
Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling resolution 4 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, e/ in which the Secretary-General of the United Nations was urgently requested, as a matter of the highest priority, to establish an African Institute for the Prevention of Crime and the Treatment of Offenders and to report to the Eighth Congress on the implementation of the above-mentioned resolution,

Recalling also resolution 609(XXII) of 24 April 1987 of the Conference of Ministers of the Economic Commission for Africa, in which interested Member States were requested to offer host facilities for the Institute, as well as resolution 642(XXIII) of 15 April 1988, by which the Conference of Ministers adopted the Statute of the Institute and urged Member States to sign the statute as soon as possible, having decided on the location of its headquarters at Kampala, Uganda, as well as on the composition of its governing board,

Concerned about the rising rate of both conventional and transnational criminality in many countries of the region and about their negative consequences on the social, economic, cultural and political life of the people of the region,

Emphasizing the usefulness of regional co-operation in crime prevention and criminal justice, as fostered by the United Nations regional and inter-regional institutes for the prevention of crime and the treatment of offenders, the functioning of which has been fundamental in fostering technical and scientific co-operation, promoting the implementation of United Nations standards and norms, and assisting the countries of the region,

Bearing in mind Economic and Social Council resolution 1989/59 of 24 May 1989, in which the Secretary-General was requested, inter alia, to continue making every effort to ensure adequate support for the Institute, through the Crime Prevention and Criminal Justice Branch, and to explore other means of ensuring the effective operation of the Institute,

Bearing also in mind resolution 661(XXIV) of 7 April 1989 of the Conference of Ministers of the Economic Commission for Africa in which, inter alia, the Conference commended the efforts made by the Government of the Republic of Uganda in preparing the host facilities for the Institute and in promoting its objectives,

Noting with appreciation the provision, by the United Nations Development Programme, of funds for the initial phase of the Institute's operations,

1. Acknowledges with satisfaction the activities so far undertaken by the Institute and the efforts made by the Economic Commission for Africa, in co-operation with the Organization of African Unity and the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, towards the realization of the project;



2. Expresses its gratitude to the Government of the Republic of Uganda for its generous offer to provide host facilities for the Institute;

3. Notes with appreciation that to date 22 Member States have signed the Statute of the Institute, thus ensuring its full existence as a legal entity, and that the inaugural meeting of the Governing Board will be held at Kampala on 14 and 15 June 1989;

4. Reaffirms the vital role the Institute is called upon to play in assisting Member States in the formulation and implementation of appropriate crime prevention and criminal justice policies and programmes;

5. Considers it essential for the Institute to undertake its activities on a continuous basis, so as to respond promptly and efficiently to the needs and concerns of African States, to meet their training and research requirements in the field of crime prevention and criminal justice and to contribute to regional and international efforts in crime prevention and criminal justice;

6. Requests the Secretary-General and all organizations and agencies involved in the establishment of the Institute to make every effort to assist the host country in providing the arrangements and support necessary for the effective operation of the Institute;

7. Invites the United Nations interregional and regional institutes for the prevention of crime and the treatment of offenders to strengthen their collaboration with the African Institute, promote a regular exchange of information and experience, and implement joint activities of mutual interest;

8. Also invites the international community, including intergovernmental and non-governmental organizations, to respond positively to the need for assistance and support that would enable the Institute to fulfil its mandates effectively;

9. Appeals to Member States of the African region and to other interested States to contribute generously, financially or otherwise, to the activities of the Institute, so as to enable it to fulfil its mandates, including the formulation and implementation of technical co-operation projects;

10. Urges Member States that have not yet signed the Statute to do so as soon as possible;

11. Urges the United Nations Development Programme, now that the required conditions have been fulfilled, to consider favourably and provide expeditiously the long-term funding for the Institute, so as to enable it to become fully operational, and appeals to other funding agencies to do likewise;

12. Calls upon Member States in the African region, in dealing with crime prevention and criminal justice in the context of development, to encourage the exchange of data, information and experience; to organize joint training and research activities; to sponsor demonstration projects of a bilateral and multilateral nature; to facilitate agreements on the provision of human, financial and material resources; and to convene regional and sub-regional seminars involving various modalities of technical co-operation, and to involve the scientific and professional non-governmental organizations active in the field of crime prevention and criminal justice in the initiatives taken.

Notes

a/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A and B.

b/ A/CONF.144/IPM.1-5.

c/ Official Records of the Economic and Social Council, 1988, supplement No. 10 (E/1988/20).

d/ "Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic 5: United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard setting, Vienna, 27 June-1 July 1988" (A/CONF.144/IPM.5), recommendations, sect. C.

e/ Seventh United Nations Congress . . ., chap. I, sect. E.

## INTRODUCTION

2. The African Regional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was the fifth in a series of five regional preparatory meetings convened to examine the substantive items on the provisional agenda of the Eighth Congress, to be held in 1990, in pursuance of Economic and Social Council resolution 1987/49 of 28 May 1987 and General Assembly resolution 42/59 of 30 November 1987.

### I. ORGANIZATION OF THE MEETING

#### Date and venue of the Meeting

3. The Meeting was organized by the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, United Nations Office at Vienna, in co-operation with the Economic Commission for Africa (ECA) and was held at ECA headquarters at Addis Ababa, Ethiopia, from 5 to 9 June 1989.

#### Attendance

4. The Meeting was attended by 145 participants, including representatives and experts from 42 States members of ECA, observers from other States, the Secretariat of ECA, the United Nations African Regional Institute for the Prevention of Crime and the Treatment of Offenders, and intergovernmental and non-governmental organizations.

5. A representative of the United Nations Committee on Crime Prevention and Control also attended the Meeting. The list of participants is given in annex I of this report.

#### Opening of the Meeting

6. The Secretary-General of the Eighth Congress and Director-General of the United Nations Office at Vienna welcomed the participants and gave the floor to the Minister of Justice of Ethiopia.

7. The Minister of Justice welcomed the participants on behalf of his Government and affirmed that the Meeting was an opportune occasion for exchanging ideas and experiences that would permit the formulation of adequate means to tackle the problem of crime. For this purpose, it was imperative to take into consideration both the specific needs of the African continent and the general needs of humanity.

8. The Minister informed the Meeting about the main changes introduced in his country since the Seventh Congress for the purpose of reducing crime and eliminating discriminatory provisions of the law. Thus, the 1987 Constitution guaranteed the fundamental rights and freedoms of individuals, and the Supreme Court and other judicial bodies had been re-established with the objective of strengthening law and order and safeguarding legally guaranteed rights. The Office of the Procurator-General was empowered to ensure the observance of the principles of legality in the administration of justice and to supervise prison administration and the treatment of inmates.

9. In addition to strengthening the powers of those institutions, basic laws were being revised. Accordingly, the preliminary drafts of the criminal, procedural, family and labour codes had been completed.

10. After expressing his and his Government's sincere wishes for the success of the deliberations, the Minister declared the Meeting open.

11. The Deputy Executive Secretary of ECA read a statement by the Executive Secretary welcoming the participants and expressing satisfaction at its hosting by the Commission. The Commission had long recognized the importance of viable crime prevention policies for sustained economic growth and social progress. The interfaces between large-scale economic crime, corruption, the outflow of capital, inflation and insecurity, and the thwarting of a fair distribution of the benefits of development were only too evident.

12. African countries would like to secure conditions of law and order, respect for basic human rights and access to the legal system for all their citizens. Consequently, they all wholeheartedly subscribed to United Nations guidelines in the field of crime prevention and criminal justice. Unfortunately, those countries often lacked the means to fully implement United Nations rules and standards. Thus, they hoped that international programmes of co-operation could be devised to assist them in updating their legislation, strengthening and modernizing the existing criminal justice institutions, designing alternatives to imprisonment and dealing with new and sophisticated forms of crime. African countries were extremely vulnerable to the destabilizing influence of organized crime and to the illicit activities of transnational corporations. Most recently, the continent had also suffered the damaging consequences of the dumping of hazardous wastes.

13. The Executive Secretary of the Eighth Congress welcomed the establishment of the United Nations African Regional Institute for the Prevention of Crime and the Treatment of Offenders and the numerous possibilities it offered to the countries of the region, and hoped that strong operational links between it and the other regional and interregional institutes and other United Nations agencies could be established. He was sure that the countries of the region would respond adequately to the challenge that the creation of the Institute represented.

14. The Secretary-General of the Eighth Congress extended to the participants the warm greetings of the Secretary-General of the United Nations, who had requested her to convey his best wishes for the success of the deliberations. She also expressed the sincere gratitude of the Secretariat of the United Nations to ECA and to the Government of Ethiopia for their invaluable assistance.

15. Recent years had seen a resurgence of confidence in the basic capacity of the United Nations to resolve dangerous regional and international conflicts. The world was experiencing the timid beginnings of an era of improved co-operation between nations. The recognition of the need to co-operate to face common threats was reflected in the greater attention given to social issues on the part of the international community.

16. The most serious manifestations of modern criminality had acquired transnational dimensions, which were of grave concern to national authorities. Consequently, international co-operation had become a sine qua non for the control of illicit trafficking in drugs, arms and persons; terrorism; organized crime; economic criminality; and crimes against the environment and the cultural patrimony. The forthcoming Congress would consider practical ways and means of combating transnational criminality, including model treaties for mutual assistance, extradition and the transfer of proceedings in criminal matters. These instruments would facilitate international co-operation, both at the national and international levels.

17. The Secretary-General of the Eighth Congress emphasized the fact that the socio-economic consequences of criminality were often compounded in Africa owing to a legacy of inappropriate penal laws and sanctions, and an acute lack of resources available to criminal justice systems. Adverse economic circumstances and unfavourable terms of trade, high external indebtedness and the lack of investment capital reduced the availability of the resources needed for the effective implementation of social and crime prevention programmes that could diminish criminality. As a result, there had been a marked deterioration in the effectiveness and efficiency of criminal justice systems, and an increasing number of countries were requesting United Nations technical assistance and co-operation in reviewing legislation, improving current operations and initiating demonstration projects. Obviously, all that required additional funding and resources.

18. The representative of the Committee on Crime Prevention and Control emphasized the fact that crime had enormous repercussions for individuals and States. As a matter of fact, human rights and fundamental freedoms were worth very little when they were constantly threatened by rampant criminality. Consequently, there was a pressing need for effective international mechanisms for promoting social peace, internal security and public safety, for alleviating the plight of victims of crime, and for ensuring respect for basic human freedoms.

19. The conclusions of the five interregional meetings, together with the new draft instruments and policy recommendations that they had adopted, were of paramount importance to criminal justice administrators and policy makers in the region. All the recommendations had been examined in great detail by the Committee on Crime Prevention and Control at its tenth session. Thus, the task of the meeting was to continue the work by proposing practical solutions to old as well as new problems. Such inputs were going to be of great value to the Eighth Congress.

#### Election of officers

20. The Meeting elected the following officers:

Chairman:	Yoseph Gabre-Egziabher (Ethiopia)
Vice-Chairmen:	Adelwahab Hamed (Algeria)
	Mugiraneza Prosper (Rwanda)
	L. S. Fofanah (Sierra Leone)
Rapporteur:	Patrick Mvunga (Zambia)

#### Adoption of the agenda and organization of the work

21. The Meeting adopted the following agenda:

1. Opening of the Meeting.
2. Election of officers.
3. Adoption of the agenda.
4. Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation.
5. Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures.

6. Effective national and international action against:
  - (a) Organized crime;
  - (b) Terrorist criminal activities.
7. Prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions.
8. United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard-setting.
9. Consideration of the conclusions and recommendations, and adoption of the report of the Meeting.

List of documents

- .22. The documents before the Meeting are listed in annex II.

II. REPORT OF THE DISCUSSION

Topic 1: Crime prevention and criminal justice in the context of development: realities and perspective of international co-operation

23. The Executive Secretary of the Eighth Congress introduced the topic, stressing that many countries, particularly developing ones, were in the grip of an economic crisis of unprecedented dimensions. That emerged very clearly from the reports of the regional commissions. A most disturbing aspect of the recessionary trend was the regressive nature of the adjustments being made, so that the weakest and most vulnerable segments of the population were paying the highest price. If poverty and marginality had been grave problems in the 1960s and 1970s, they had become overwhelming in the 1980s, with serious setbacks for development programmes in numerous developing countries. The resulting social situation was an ideal breeding ground for social tensions that were often accompanied by rampant crime and growing delinquency. Under such circumstances, crime became a strategy for survival. In such situations, organized crime infiltrated legitimate business and public institutions, undermining order and the maintenance of the rule of law.

24. The Meeting acknowledged the destructive impact that depressed economic circumstances were having on social relations. The oppressiveness of external indebtedness, coupled with weak currencies and low levels of remuneration of public officials, created circumstances conducive to corruption and to social disintegration. Developing countries were not lacking in determination to reduce criminogenic influences but often lacked the capability to do so owing to a shortage of the necessary resources. Consequently, international co-operation had become a prerequisite for success in crime prevention. The extremely sophisticated planning, co-ordination and viciousness of organized crime demonstrated that no single country was in the position to cope alone with its challenge.

25. Furthermore, old crime prevention techniques appeared to have become ineffective in combating the new criminal methods. The requisite expertise was often not available in developing countries. It was obvious that the modernization of equipment was, in itself, not sufficient. The lack of professionalization would defeat the most modern hardware. Thus, the problem was both financial and human.

26. Harsh reactions should be avoided, since they were not likely to solve the problem. In fact, such reactions only succeeded in violating human rights. Therefore, it should be constantly reaffirmed that real solutions could only operate within the framework provided by accepted human rights and freedoms.

27. The Meeting also considered that technical co-operation was indispensable for the African continent. In that connection, it was thought that the inter-regional advisory services were very useful but insufficient to meet the increasing demand. Thus, they had to be complemented by regional services, and the new United Nations African Regional Institute was perceived by many participants as an effective channel for technical co-operation in the region. In fact, the Institute's programme of work already included such items as training, action-oriented research, advisory services, information exchange and the promotion of international co-operation. In addition, the Institute could help in the collection of data and in preparing statistics for the region, without which it was extremely difficult to ascertain trends and to formulate adequate prevention policies. Furthermore, the Institute could play a catalytic role, acting as a prime mover in the implementation of United Nations crime prevention and criminal justice norms and standards by Governments of the region.

28. Some participants were disappointed by the lack of implementation by African countries of the conclusions and decisions of previous congresses on crime prevention. Countries appeared little inclined to take seriously the menace of crime and, consequently, paid little attention to the corresponding recommendations. They could not be blamed for this attitude, however, since it was a reflection of the attitude of the United Nations towards its own crime prevention and criminal justice programme, as manifested in the understaffing and inadequate resources of the Crime Prevention and Criminal Justice Branch at Vienna. That obvious neglect not only encouraged a casual attitude on the part of Member States but also prevented more effective action to assist countries in need.

29. Some participants thought that the extent of the problem in the African region required the elaboration of conventions at the continental level. In that respect, the new Regional Institute could also play a leading role by formulating model treaties and draft conventions. Existing arrangements were not broad enough and needed expansion.

30. Economic crimes, whether committed by criminal organizations or by transnational corporations, were perceived by many participants as a dire threat to developing countries and their development plans. Offences such as the smuggling out of capital were particularly harmful to developmental initiatives. Their detection, however, was made extremely difficult by the prevailing bank secrecy practices. Thus, it was necessary to make bank secrecy less strict so that smuggled capital could be recovered by the affected country, either following the criminal law principle of extra-territorial jurisdiction or further to civil suits.

31. Many participants voiced great concern about growing environmental offences. Most of those offences originated outside the continent. Consequently, only international co-operation and a clear commitment on the part of developed countries could bring an end to those abuses.

32. Youth crime was perceived as a particularly alarming phenomenon, as it constituted a grave threat to the future of African society. The high proportion of the population under 25 years of age made the phenomenon not only more visible but also critical.

33. With respect to organized crime, many participants were of the opinion that no single country was in the position to defend itself, alone, from its deleterious impact. Regional and international co-operation was indispensable if success was to be attained. There was an urgent need to apply financial sanctions against criminal organizations. Thus, it was necessary to allow the confiscation of assets. It had to be remembered that the large amounts of money available to organized crime made corruption a favourite instrument of those criminal organizations. Imprisonment as a penal sanction could not prove effective on its own.

34. The negative impact of crime on development was acknowledged by the Meeting. Many a good project had been destroyed by crime. It was indispensable to integrate crime prevention planning into general socio-economic development planning. The countries of the region suffered from a lack of properly trained personnel, but that deficiency could not be corrected owing to insufficient resources. Moreover, most current policies were addressed to combating symptoms instead of the real causes, which were insufficient development, poverty and discriminatory terms of trade. Peace hinged on freeing the majority of the population from the grip of misery. What African countries most clearly shared was poverty, a circumstance that encouraged the corruption of public officials, either by the agents of organized crime or by transnational corporations.

35. The problems of the region were further compounded by the flight of capital resulting from the illicit operations of either organized crime or of some transnational corporations in complicity with certain public officials. Thus, whatever little resources were available in developing countries became the profits of developed countries and the bribes paid by those countries to corrupt public officials. Such capital flight should be the object of study on the part of the Institute, which should formulate proposals for the banking institutions of the developed countries to take concrete measures, such as the rejection of suspect deposits originating in developing countries. Furthermore, those banking institutions should commit themselves to co-operating in investigations requested by developing countries. Offenders and potential offenders should know that there was no safe haven for them.

36. With respect to drug trafficking, some participants advocated a more liberal use of capital punishment as a sanction against drug dealers and producers. Other participants, however, doubted whether such measures would in fact deter potential offenders. The experience of some countries suggested that that was not the case. Moreover, a clear distinction should be made, with respect to punishment, between dealers and producers, on the one hand, and users, on the other. For the latter, treatment was probably far more effective than punishment.

37. Transborder criminal organizations often used sophisticated techniques in their illicit operations. Consequently, there was an urgent need to introduce new investigative techniques. Moreover, the more serious among these crimes should be classified as crimes against humanity, thus permitting countries to apply the principle of extra-territoriality in pursuing the offenders. In any case, it should be recognized that many crimes would not have occurred if all countries had adhered strictly to the obligations they had assumed under the United Nations Charter and the international agreements to which they had subscribed.

38. There was an urgent need to revise old legislation. Many of the current laws had become obsolete because they had been formulated before the emergence of the more sophisticated forms of criminality. Similarly, there was a



pressing need to train personnel in the use of advanced techniques, enabling them to cope with the use of such techniques by international criminal organizations. But, since the countries of the region often lacked adequate resources, the need for international co-operation in those matters was quite evident.

39. Co-operation should also take regional and subregional forms and include a number of activities, from the exchange of information to the formulation of regional and subregional co-operation instruments, including extradition agreements. In that respect, some participants felt that it was time to attempt to elaborate an extradition treaty for the entire African continent and thought that the Institute could contribute substantially to such a project. With respect to the exchange of information, participants remarked that it remained merely a desideratum, since many countries of the region possessed only a very rudimentary infrastructure for the collection and transmission of information. Moreover, it was disheartening to note that many countries were over-reluctant to provide any information concerning criminal activities on their territory, fearing the impact that it could have on their international image. With respect to subregional agreements, the Meeting was informed of a proposal for mutual assistance in criminal matters in the West African subregion, which was being studied by the Governments of that area.

40. Since the high rate of illiteracy prevailing in most countries of the region was a specifically African problem, many delegates emphasized the need to reinforce the role of education as an instrument of crime prevention. That would be true prevention, and it should take the place of the repression applied to offenders. Similarly, preventive health programmes could effectively contribute to improving conditions that could otherwise lead to criminal behaviour.

41. The Meeting adopted the recommendations proposed by the interregional preparatory meeting on topic 1, 1/ but suggested the following changes:

- Recommendation 5: The expression "government officials" should be changed to "public officials".
- Recommendation 5(c): It should be specified that the forfeiture of funds and property obtained by public officials should be made "in a legal manner".
- Recommendation 5(d): The subparagraph should become 5(b).
- Recommendation 6: The recommendation should be reinforced at the end by specifying the responsibility of developed countries to assist developing countries in their drug abuse control efforts.
- Recommendation 9: The inventory of crime prevention measures should be broad enough to consider all relevant experiences.
- Recommendation 12: The Arabic text should be revised in order to eliminate inaccuracies created by inadequate translation.
- Recommendation 16: It should be added that Governments should provide reliable criminal justice data on a regular basis.

42. It was also suggested the recommendations could probably be preceded by a general principle in which Governments and Member States would reaffirm their commitment to respect the existing international treaties and their adherence to United Nations principles as expressed in the Charter. The best way to prevent crime would be to ensure that those principles were not sacrificed.

Topic 2: Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures

43. The Executive Secretary of the Eighth Congress introduced the topic, which had been proposed by the Committee on Crime Prevention and Control at its ninth session <sup>2/</sup> and approved by the Economic and Social Council in its resolution 1987/49 of 28 May 1987, under which the Congress would examine, *inter alia*, strategies and policies of rehabilitation and socialization, including alternatives to imprisonment, in pursuance of resolution 16 <sup>3/</sup> of the Seventh Congress.

44. The situation in many countries had become a matter of great concern because the Standard Minimum Rules for the Treatment of Prisoners, which had been adopted by the First Congress in 1955 and approved by the Economic and Social Council in its resolution 663(XXIV) of 31 July 1957, were still not being satisfactorily applied. Furthermore, recourse to imprisonment as a means of crime control had increased, resulting in the overcrowding of penal institutions. Those institutions were often in a state approaching ruin, a circumstance that inevitably created subhuman conditions for the inmates. Under such conditions, it was obvious that rehabilitation had become more of a utopia than a reality. In addition, emerging problems among prison populations, such as drug abuse and the spread of acquired immuno-deficiency syndrome (AIDS), were far more difficult to handle under conditions of overcrowding. The proposed draft rules on non-custodial measures were intended to assist countries in resolving such problems.

45. Several participants readily recognized the excessive reliance on imprisonment in the region. That trend was, however, at variance with African customs, culture and traditions, which had never favoured or recognized the deprivation of liberty as a penal sanction. Imprisonment was, in fact, traditionally perceived as not treating prisoners as human beings. In addition, participants thought that the excessive use of imprisonment contributed to the deterioration of the economic situation insofar as it consumed large amounts of scarce resources. In turn, prison conditions were affected by the worsened economic situation.

46. Imprisonment resulted in the destruction of the personality of the inmates and contributed to the spread of certain diseases. Thus, alternatives to incarceration should be explored and implemented. Many such alternatives were fully consistent with traditional African values and were thus likely to be successful if given a fair chance. For that purpose, however, legislation had to be amended, since the existing laws often did not offer the possibility of experimenting with less costly and more effective methods. Although it was true that Africa lacked adequate means, it possessed the invaluable resource represented by its culture, which emphasized such mechanisms as reconciliation and community treatment, as well as compensation and restitution to the victim.

47. Furthermore, in many cases in which possibilities for alternative measures already existed, judges and magistrates were either unaware of or unwilling to use them. There was, therefore, a need to re-educate judges. Nonetheless, alternative measures should not be motivated by or find their main justification in overcrowding. The reasons for implementing such measures should be

the better chances they provided for rehabilitation and for lowering recidivism rates.

48. It was obvious that imprisonment could not be abolished completely. Certain categories of criminal had to be confined, if only to protect society from the danger of their being at large. Institutional treatment, however, should be based upon scientific research and should also be individualized, so that such factors as the situation of the offender, the circumstances of the offence and the overall environment were taken into account in order that the chances of rehabilitation and the protection of society could be maximized. The root causes of crime should be uncovered, an objective for which research was indispensable. In any case, non-dangerous offenders should always be given an opportunity to reform without recourse to imprisonment, except in cases of particularly dangerous crimes.

49. Several participants thought that prisoners should be protected from victimization by fellow inmates. Many of them were too frightened to report such victimization, and thus prison authorities failed to prevent rape and other abuses which, incidentally, could contribute to the spread of sexually transmitted diseases in prisons. Although the difficulties were evident, an effort should be made to devise measures to eliminate that kind of victimization. The possibility of establishing a special prison ombudsman, as well as effective systems of complaints and judicial supervision, should be carefully explored.

50. Some participants thought that, although it was true that imprisonment did not correspond to traditional African values and attitudes, the argument had lost much of its validity insofar as imprisonment had been fully assimilated into contemporary penal sanctions. In fact, imprisonment had become popular with African Governments, since the public at large was hardly conscious of the de-humanizing conditions prevailing in penal institutions. Those conditions had deteriorated so radically in recent years that a person currently sentenced to imprisonment in reality suffered a much harsher punishment than a person sentenced to the same length of imprisonment 10 years ago. That implied a double punishment, because the inmate suffered, first, a loss of freedom and, secondly, subjection to considerably worse living conditions than had been the case in the past. It was therefore necessary to sensitize magistrates and the community to the level of suffering they were imposing, which went far beyond the mere loss of freedom.

51. Africa was still oppressed by apartheid, a policy that should be vehemently condemned as a crime against humanity, as it violated all human rights and freedoms. Thus, South Africa was the very symbol of a criminal Government and, as such, deserved the sustained and repeated condemnation of the international community. In the same vein, the violations of human rights in occupied Palestinian territories should not be ignored and should also attract condemnation.

52. Fines should be encouraged as an alternative to imprisonment. However, they could even contribute to an increase in overcrowding if many people were not in a position to pay them and would thus end up in prison. Consequently, it was preferable to use other alternatives, such as community work or suspension of sentence. To send people to jail because they could not pay the fines imposed was, for many participants, discrimination against the poor.

53. Some participants thought that decriminalization and depenalization should be more widely used and applied for minor offences. Thus, abortion and prostitution could be decriminalized. As a result, the degree of discrimination

against women would decrease. Those individuals, however, who profited from the exploitation of prostitution should be punished harshly. Furthermore, the use of drugs should be treated not as a crime but as an illness requiring treatment rather than punishment. There was no real need for imprisonment.

54. The absence of reliable information was a serious shortcoming in many countries of the region. Consequently, a priority of technical co-operation programmes should be assistance in the establishment of agencies for the collection of quantitative, statistical information. In that respect, the computerization of criminal justice systems was a promising development for which, however, considerable assistance was required, both in terms of the training of the requisite personnel and the acquisition of the necessary hardware.

55. At the conclusion of its debate, and on the basis of the observations summarized above, the Meeting endorsed the resolutions proposed by the Interregional Meeting on topic 2 (A/CONF.144/IPM.4).

Topic 3: Effective national and international action against:  
(a) organized crime; (b) terrorist criminal activities

56. In introducing topic 3, the Executive Secretary drew the attention of the participants to the dual nature of the topic. In reality, it was two topics rather than one, although the interlinkages between the two phenomena were undeniable. The duality of topic 3 had been clearly recognized by the Committee on Crime Prevention and Control at its ninth session, when the item was chosen for the provisional agenda of the Eighth Congress.

57. The topic emanated from two resolutions adopted by the Seventh Congress, namely, resolutions 1 and 23. 9/ The two resolutions had served as the basis for discussion on the occasion of the Interregional Preparatory Meeting on topic 3 (A/CONF.144/IPM.2). In addition to a series of pertinent recommendations, the Preparatory Meeting had endorsed the elaboration of two model treaties, for submission to the Eighth Congress, the latest versions of which were contained in A/CONF.114/RPM/CRP.1 and 2.

58. Among the most serious consequences of the operations of organized crime was the infiltration of legitimate business. In fact, the huge profits made by criminal organizations were invested in order to launder such profits. Only a small part of those profits was used for the continuation of the illicit operations, while the largest share joined, through off-shore banking and other financial institutions, the international flow of capital. There could be no doubt that such capital was often the source of widespread corruption.

59. The Executive Secretary also drew attention to the alarming growth of terrorism, as evidenced in the increase of terrorist incidents and the number of their victims. That phenomenon had introduced a very dangerous and explosive new element in international relations, the consequences of which were highly unpredictable.

60. The Meeting acknowledged that the operations of organized crime, in particular drug trafficking, as well as serious economic and white-collar crime, were rapidly becoming a major problem for the countries of the African region. Many participants felt that, although organized crime also affected developed societies, the impact on developing countries in general, and on African societies in particular, was considerably more destructive owing to the greater vulnerability of the latter. Furthermore, organized crime was

using such sophisticated methods that, on many occasions, developing countries were not even aware that a crime had been committed and, when aware, were virtually powerless to do anything against the offenders.

61. The representative of the World Health Organization (WHO) drew attention to a relatively new phenomenon, namely the commercial trafficking in the organs of healthy donors for organ transplantation. That practice was inconsistent with the most basic human values and exploited human distress, particularly in vulnerable groups, and put at risk the health of donors. Because there had been little success in preventing the practice, the World Health Assembly had recently approved a resolution in which it called upon member States of WHO to take appropriate measures to prevent the sale and purchase of human organs for transplantation, including legislation. It also urged them, in close co-operation with professional health organizations and health authorities, to discourage all practices that facilitated commercial trafficking in organs.

62. The urgent need for technical co-operation in that connection was emphasized repeatedly by the participants. Assistance should be massive and should cover three crucial areas: first, personnel had to be trained in modern techniques; secondly, modern equipment for crime detection had to be provided; and thirdly, there was an urgent need for extensive legal reforms so that domestic legislation would be adequately updated to contain the threat. The new Institute, if properly funded, could contribute its share to the required training.

63. In connection with the urgent need for equipment, several participants reported how the lack of laboratory facilities, for instance, had impeded legal proceedings, as the required evidence could not be submitted to the courts. Such a situation hampered crime prevention efforts and resulted in impunity. With respect to the need for legal reform, some participants pointed to the difficulties that faced a country having a written constitution, since the reforms had to respect all constitutional provisions. The alternative in such a situation was to amend the constitution, an exercise no less fraught with inherent difficulties and dangers.

64. The Meeting felt that there was a pressing need for bilateral and multi-lateral treaties and, in particular, for extradition arrangements. That would ensure a more viable basis for concerted action against international offenders. The existence of such instruments did not totally eliminate the possibility of technical difficulties, however. For example, procedures were often cumbersome and time-consuming. Moreover, any attempts at simplifying them ran the risk of violating the rights of the accused. On the other hand, any attempts at expediting those procedures had to take into account the difficult and delicate balance between facilitating extradition and protecting human rights.

65. The participants felt strongly that one of the main avenues of attack against organized crime was through economic sanctions. Thus, the confiscation of illicit assets should be one of the main strategies. Illicit assets were the Achilles' heel of organized crime, and getting hold of them was the most effective means of breaking the backbone of criminal organizations. At least part of the funds thus confiscated should, in the opinion of the Meeting, be used to finance programmes against drug abuse in developing countries, such as treatment centres and clinics. Such funds, however, should be provided as aid and not as loans. In that manner, the resolve to catch the offenders would be strengthened.

67. Many participants felt that there was a need to review banking legislation, both in developed and in developing countries, particularly since, as mentioned in the discussion of topic 1, bank secrecy was frequently abused, usually to the detriment of developing countries. Unfortunately, some Governments believed that harbouring the proceeds of organized crime gave them some economic advantages and additional revenue. In such circumstances, international co-operative efforts aimed at controlling organized crime encountered serious obstacles. In that connection, some participants observed the blatant contradictions characterizing existing attitudes and conduct. On the one hand, developed countries were doing everything in their power to eradicate drug abuse within their territories. On the other hand, they permitted their nationals to engage in activities that were clearly harmful to the economies of developing countries. Thus, it was thought that developed countries should demonstrate their good will and commitment by adopting domestic legislation ensuring that the business ventures of their nationals in third world countries were, from the very outset, completely legitimate. Such legislation would constitute a valuable form of international co-operation.

68. Since organized crime operated most often transnationally, participants felt that the need for the exchange of information could not be over-emphasized. Many countries were becoming transit points and, although more than willing to co-operate in the eradication of drug traffic, were prevented from doing so owing to the lack of adequate equipment. A similar problem existed with the use of the African continent for laundering purposes, since the authorities were hardly in the position to investigate the sources of investments or of loans offered to the Governments of the region. Such infiltration was an alarming development, since, in that fashion, criminals acquired leverage vis-à-vis national Governments.

69. Corruption was one of the most deleterious consequences of the activities of organized crime. In that connection, several participants informed the Meeting of the establishment of anti-corruption agencies and the enactment of appropriate laws in their countries. Thus, in some cases, civil servants, and even Ministers, were required by law to explain the sources of their enrichment and to report on the state of their finances on a regular basis. Other countries had set up committees charged with investigating any sudden enrichment, particularly of public officials. Such measures were especially important in regions where, owing to poverty and insufficient development, officials in general were somewhat more vulnerable to the temptation of receiving bribes.

70. Developing countries were in need of assistance in the eradication of drug production. It should be borne in mind, however, that the same plants were used to produce drugs for licit and illicit purposes. Plants grown for licit purposes had to be preserved, since they were used to produce medicines. Crop substitution was a desirable policy in the region, particularly in view of the fact that the drug predominantly produced in African countries was the least profitable, and therefore substitute crops were more economic. What should not be permitted was the eradication of plantations by spraying them with strong herbicides, since this could lead to the destruction of the environment, making the land unfit for any other use. Moreover, eradication without substitution would only lead to increased poverty. In that connection, some participants were of the opinion that developed countries should financially compensate the developing countries that succeeded in curbing drug production, so as to make up for the corresponding loss of income.

71. The view was also expressed that perhaps some form of legalization could be a solution to the problem. Other drugs, such as alcohol, were legal, although the damage they did to society was only too obvious. Legalization

would destroy high profits and thus take away the main motivation for organized crime. The suggestion deserved at least a fair hearing.

72. According to some participants, the predominant feeling in the region with respect to organized crime was a willingness and commitment to take action against it, but there was also a feeling of almost helplessness. The challenge was too complex, and the resources were too scarce. Legal instruments, adopted well before the current threats emerged, seemed to have lost their effectiveness. All conferences did nothing but repeat the same proposals, which were, however, never implemented. It looked as though by the time something was done, it would be already too late. It was imperative for the United Nations to provide immediate assistance to the countries of the region. The political will to deal with the menace existed, but the means to effect it were, regrettably, unavailable.

73. With respect to criminal activities of a terrorist nature, the Meeting felt that there was an urgent need to bring such activities under control. Nevertheless, some participants felt strongly that a clear definition of terrorism was necessary and that a distinction between terrorism and liberation struggles by legitimate liberation movements should be drawn. Thus, the legitimate struggle of peoples for self-determination was not terrorism.

72. Furthermore, the Meeting felt that State terrorism had to be condemned just as strongly and clearly as the terrorism practiced by individuals or groups. The United Nations had to search for effective means to deal with States engaged in such criminal activities, although the task was obviously a difficult one.

73. Several participants mentioned that subregional and bilateral extradition agreements had been entered into, which, it was hoped, would bring transnational criminals to justice. One participant appealed to the United Nations to help the countries of the Economic Community of West African States (ECOWAS) to develop a mutual assistance treaty in criminal justice matters to deal with the problems that would result when complete freedom of movement within the region was established.

74. The time had come for the establishment of an international criminal court, under the auspices of the United Nations, in which grave international crimes, and particularly terrorism and organized crime, could be brought to trial. That could be achieved through the application of the principle of international jurisdiction for those crimes. The need for an international convention in that area was also acknowledged by the Meeting, which reiterated the necessity for effective regional and subregional arrangements, including direct contacts and close collaboration between law enforcement agencies, the sharing of information, the establishment of task forces and the creation of special commissions and courts.

75. The Meeting approved the recommendations of the Interregional Preparatory Meeting on topic 3, subject to the amendments and additions it had suggested, as well as the draft instruments contained in A/CONF.144/RPM/CRP.1 and 2.

Topic 4: Prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions

76. The Secretariat introduced the topic, drawing the attention of the participants to the widespread concern about the problems of young people in conflict with criminal law. In that respect, there was a risk of double

victimization. The worst consequence, however, was the fact that youth were, in many countries, put in prison with hardened criminals, thus consolidating the development of criminal careers.

77. Two draft instruments were to be considered by the Meeting under this topic 4, namely, the United Nations draft guidelines for the prevention of juvenile delinquency (the Riyadh Guidelines) and the United Nations draft rules for the protection of juveniles deprived of their liberty. Both were of extreme importance.

78. The Meeting stressed that the prevention of delinquency was a topic of great concern to Africa, as half of the African population was under 18 years of age and many young people were unemployed and living under deplorable conditions. "Street children", who were forced to survive as best they could on their own, were double victims: they were being neglected by society and were being exploited by adult criminals and criminal organizations. Young people were introduced to drugs at an early age, made dependent on narcotic substances and forced thereby into criminal activities in order to maintain their addiction. There were not sufficient programmes in place to assist the "children at risk", nor were there many effective rehabilitation programmes to deal with juvenile delinquents.

79. Many participants informed the Meeting of the recent changes in juvenile justice legislation in their countries and the efforts being undertaken to prevent delinquency. Although they described many successful projects, they also stated that the programmes were insufficient to deal with unemployed youth, school-leavers, abandoned children and young prostitutes. Countries looked to the United Nations system for assistance in those areas. One participant mentioned the adverse effects that externally imposed structural adjustment programmes had had on such social assistance programmes.

80. Several participants referred to the plight of youth living in refugee camps as one of the greatest problems of the African continent. Those children were very vulnerable and easily exploited, becoming beggars, prostitutes and delinquents. An appeal was made for special programmes to be introduced to counter that situation.

81. Traditional African societies had built-in mechanisms for dealing with delinquent behaviour. Owing to urbanization and negative Western influences, the role of the family had diminished. Several participants described community-based programmes to deal with delinquent youth. Often reparation was considered the most appropriate punishment. Parents could also be held responsible for the behaviour of their children. Some participants felt that corporal punishment was preferable to incarceration. The deprivation of liberty was considered to be a measure of last resort.

82. Many participants urged the introduction of harsh punishment for the corruptors of youth, particularly drug dealers and procurers. Others stressed that certain violent films, which glorified selfish and anti-social behaviour, should be prohibited or, at least, put beyond the reach of minors. There should also be educational programmes aimed at explaining the dangers of drugs and reinforcing positive moral values. Several participants emphasized the importance of sex education and of the availability of birth control devices, in view of the high rates of teenage pregnancy and the resulting social problems.



83. Participants also referred to the growing phenomenon of domestic violence, which led to the break-up of families and to juvenile delinquency. Some women were left by their husbands with few resources to bring up their children, while others suffered violent abuse. Violent behaviour not only accelerated the destruction of many families but was also influencing the future conduct of youth. A reform of divorce laws, which would protect women and children, was needed. It was reported that a study of violence against spouses, children and the elderly that was being prepared for the Eighth Congress would describe how criminal justice and social welfare agencies were dealing with the victims as well as the abuses.

84. Participants strongly believed that delinquency was a threat to society, insofar as its growth compromised the future of civilization in a direct manner. The youth of today would become the adults of tomorrow. Thus, if they were not protected from deterioration and corruption, the future held no promise. In the struggle against delinquency, the family and the community played a decisive role. Public awareness campaigns and adequate educational programmes could explain to young people the dangers of drugs and promote their commitment to social order and discipline.

85. Juvenile delinquency could readily be decreased if minors were offered better opportunities for creativity, entertainment and employment. If frustration was avoided, unacceptable behaviour would become less likely. Traditional societies had built-in mechanisms for preventing the emergence of delinquency. However, most of these structures had disappeared under the impact of colonialism and had not been restored after independence. A reversal of the trend by restoring traditional mechanisms could substantially reduce the proneness to delinquency. Also, appropriate linkages had to be established between the school, the family and other relevant social services.

86. Participants felt that broken families, or families where a parent was alcoholic, were in no position to properly fulfil their educational role. Such faulty social structures generated behavioural disturbances in young people. Thus, some thought should be given to the possibility of establishing alternative ways to provide children with the environment they lacked at home, keeping them away from noxious influences.

87. Many participants indicated that in developed countries, in spite of the availability of resources, the successes in preventing delinquency were disappointingly meagre. Accordingly, greater attention had to be given to the management of resources. All countries seemed to be facing the same problem, regardless of their level of economic development. No miraculous solution existed, and the temptation to succumb to drastic solutions, such as imprisonment, the consequences of which were often nefarious, had to be avoided. On the contrary, every effort had to be made to provide legal and social services to all youth in need, ensuring the protection of their fundamental rights, without excluding or marginalizing them from the mainstream of society.

88. It was imperative to organize community structures that would provide youth with opportunities for social integration and the acquisition of civic values. In that connection, countries could benefit from the elaboration of a national youth policy in which strategies for the integration of youth into the social, economic and cultural development of their countries were spelled out. In the preventive effort, the home, school and community should be closely interlinked, thus optimizing the chances of success.

89. An urgent need existed to formulate a criminal law specifically applicable to minors, in which mediation, compensation and community service played a predominant role. In that connection, it was observed that provisions for alternative sanctions were in fact often present in legislation. It was equally observed that the legislation contained alternatives to prosecution. The problem was that judges seldom applied such alternatives. Thus, the task consisted in informing and enlightening judges.

90. The Meeting approved the two draft instruments submitted for its consideration, with minor amendments, and suggested that the draft rules for the protection of juveniles deprived of their liberty 4/ should be considered as an annex to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 5/ emphasizing their complementary nature.

Topic 5: United Nations norms and  
guidelines in crime prevention and criminal justice:  
implementation and priorities for further standard-setting

91. The Executive Secretary introduced topic 5, underlining its great importance, from the point of view both of the implementation of already adopted norms and of future standard-setting. It was encouraging to find that many countries, in dealing with the radical upsurge in criminal activities that had taken place in recent years, had succeeded in reacting adequately without violating human rights. Nonetheless, the danger always existed that an emphasis on law and order could lead to a reduction in the freedoms of the individual. A delicate balance between the interest of the collectivity and the rights of individuals had to be safeguarded. Since the power of the State was far greater than the power of any individual, it was imperative that the State impose upon itself the obligation to protect its citizens from the indiscriminate application of its power.

92. Participants observed that the main objective of the drafts before the Meeting was the protection of human rights. In that connection, African countries should keep in mind that they had inherited a legacy of colonial culture, the natural tendency of which was towards repression as a method of government. That clearly went against the grain of traditional African culture, the values of which were being revitalized and reimplemented. For that purpose, programmes for the retraining of the police should be established in the region. The same need for retraining existed with respect to judges, who often were uninformed about United Nations standards and norms.

93. Participants felt that it was necessary to go beyond mere declarations and to concentrate on more implementable standards. There was little motivation to implement the good intentions contained in declarations, whereas standard minimum rules stood a much better chance of leading to practical action. Thus, it was proposed that, in the future, several sets of standard minimum rules should be elaborated in areas such as the prevention and control of drug abuse, the prevention and control of organized crime, in general, and the prevention and control of corruption. In the last respect, however, it was thought that the standards elaborated should not be so restrictive as to discourage much-needed foreign investment.

94. In line with the above, it was felt that it was time for the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order 6/ to be reformulated as a set of standard minimum rules, since that would facilitate their application

by Governments. Similarly, it was also believed that the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power could be the basis for drafting a new convention in that area.

95. The Meeting also believed that the time had come for the elaboration and adoption of an international banking code. Such a code would have to strike a balance between the need for privacy and the need for honesty and transparency. In any case, the obligations of banking institutions towards their customers could not be greater than their obligations towards the societies in which they existed and towards people at large. The United Nations should act quickly in that matter, since countries were already taking multilateral, bilateral and even unilateral initiatives aimed at bringing banking abuses under control.

96. Many participants informed the Meeting of sweeping reforms that had been undertaken in their countries in response to the conclusions and recommendations of the Seventh Congress, or even before the congresses. The principal aim of those reforms was to increase the protection of human rights.

97. The Meeting reaffirmed the value and usefulness of the interregional advisory services, which had proven their crucial importance in furthering modalities for the implementation of existing standards. But there was also a very strong need to complement those services at the regional level. In that respect, it was felt strongly that the role of the United Nations in disseminating knowledge of the standards and norms and in their implementation at the subregional, regional and international levels was crucial. For that purpose, however, the resources allocated to the crime prevention and criminal justice programme of the United Nations had to be substantially increased.

98. Reference was made to the 1987 consultation on the treatment of prisoners with AIDS, which prescribed certain guidelines for handling infected prisoners in a non-discriminatory and humane way. It was imperative to recognize that those prisoners should be treated, to the maximum extent possible, in the same manner as other inmates. The World Health Organization (WHO) and the United Nations Office at Vienna were preparing a manual for corrections officials, based on the 1987 Guidelines, and were seeking as much information as possible from Member States on current treatment policies. Several participants recognized that, although the number of prisoners with AIDS was still very low in the region, prevention and information programmes should be developed, as there were very high AIDS rates in some countries of Africa, and that prisoner's aid associations could be very useful in providing community support for released AIDS prisoners.

99. It was suggested that prostitution and abortion should not be punished. In view of the very important role of women in child-rearing, it was difficult to justify the incarceration of mothers with young children. If the State prohibited the execution of pregnant women, it was illogical to execute mothers with children. On the basis of that line of argument, perhaps capital punishment should be entirely abolished. As a result of research carried out in some African countries, which indicated that capital punishment had no deterrent effect and was not supported by the population, some participants advocated its total abolition. Others argued that partial abolition on the basis of sex would be discriminatory. Still other participants felt that certain crimes were so heinous that the persons found guilty should be punished by death. There was consensus that the issue of capital punishment deserved further debate in all relevant forums, at the national level, in order to formulate national policies in line with international guidelines.

100. In the opinion of some participants, it was time to abolish certain harmful traditional practices. Although inhabitants of the region could be proud of certain very humanistic traits of traditional African culture, other practices, predominantly directed against women and children, were not only cruel and inhuman but also in violation of basic human rights. As examples, infibulation and clitorrectomy were mentioned, and it was urged that the abolition of such practices should be included in the agenda of the Eighth Congress. However, one participant noted that the Organization of African Unity had decided that such practices should first be discussed in the region before being considered in international forums.

101. Many participants made reference to the African Charter of Human and Peoples' Rights and the recently established African Human Rights Commission. Although violations of human rights were still widespread in Africa, there was now an African standard against which to measure the performance of Governments in ensuring the rights of their people. Several participants mentioned that unless there were effective controls over the use of force by the police, abuses might take place.

102. All the draft instruments recommended by the interregional meeting on topic 5 7 for adoption as well as the draft guidelines on prosecution were endorsed by the Meeting; however, the participants made the following suggestions:

Basic principles on the use of force and firearms by law enforcement officials

Principle 25. The expression "if they could reasonably be expected to be aware" could be interpreted as placing the onus of proof on the suspect and should therefore be deleted.

Principle 26. The expression "could have been reasonably expected to know" carried the same prejudice as principle 25 and should be deleted. Furthermore, several participants felt that the expression "shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who ... refuse to carry out an order to use force or firearms" dangerously undermined the fundamental role that obedience necessarily played in police forces and should therefore be rephrased.

Basic principles on the role of lawyers

Principle 8. The expression "save temporarily in exceptional circumstances to be specified by law" was unacceptable, since it opened the door to arbitrariness. The basic right of defence should not be denied, especially in such circumstances. Thus the principle should be deleted.

Model agreement on transfer of proceedings in criminal matters

Article 6(c). The following phrase "unless the law provides otherwise" should be added at the end of the sentence.

Article 7. The possibility that the article granted to an accused person the choice of the court where the proceedings were to take place was questionable. Consequently, the article should be reformulated.

Articles 11 and 12. Some re-drafting was suggested.

### Draft guidelines on prosecution

In the opinion of some participants, the draft did not sufficiently take into consideration the different characteristics of prosecutors in civil law and common law systems. That was true of guideline 5, where the expression "term of office" was inadequate for some African countries in which prosecutors were not appointed, as well as of guideline 10, which recommended that disciplinary bodies should consist of, or include, prosecutors, since this could prejudice the decisions of such a body.

Furthermore, the right of appeal against decisions of a prosecutor, taken in his or her discretionary powers pursuant to guideline 14, could, in the opinion of some participants, lead to abuses and delays in the proceedings. Similarly, in guideline 18, to authorize prosecutors to initiate or conduct their own independent investigations could lead to the prosecutor being personally excessively involved with the case, thus making him or her susceptible to bias and prejudice. Therefore, there was need for rephrasing or for deleting the second sentence.

In general, however, the Meeting considered that, on the basis of the recommendations of the Seventh Congress, the draft guidelines were important and needed. However, in their formulation, attention should be paid to their essential elements rather than to the details.

103. At the conclusion of the Meeting, it was recommended that the Eighth Congress should urge the international community to provide the financial and technical assistance required by developing countries to integrate the United Nations norms and guidelines into national laws and practice. Unfortunately, the African countries, which were currently facing considerable economic difficulties and, as a result, were giving priority to other pressing needs, could do little, under the circumstances, towards a complete humanization of criminal justice. The Meeting expressed the hope that the United Nations would increase its assistance in that field to individual countries and to the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders so that the goal could be achieved.

### III. ADOPTION OF THE REPORT OF THE MEETING

104. At its final session, the Meeting adopted the report introduced by the Rapporteur. It also adopted resolution 1 sponsored by the Gambia, Niger, Nigeria and the Sudan and resolution 2 sponsored by Angola, the Gambia, Niger, Nigeria, Sierra Leone, the Sudan, Uganda and Zambia (see paragraph 1).

### Notes

1/ "Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic 1: 'crime prevention and criminal justice in the context of development: realities and perspectives in international co-operation'; Vienna, 15-19 February 1988" (A/CONF.144/IPM.1), chap. I, sect. A.

2/ Official Records of the Economic and Social Council, 1986, Supplement No. 5 (E/1986/25), chap. I, sect. A, draft resolution IV.

3/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

4/ "Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic IV: 'prevention of delinquency, juvenile justice and the protection of the young: policy approaches and directions'; Vienna, 18-22 April 1988" (A/CONF.144/IPM.3), recommendations.

5/ Seventh United Nations Congress ..., chap. I, sect. C.1.

6/ Ibid., sect. B.

7/ "Report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic 5: United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard setting, Vienna, 27 June-1 July 1988" (A/CONF.144/IPM.5).

Annex I

LIST OF PARTICIPANTS

Members of the Economic Commission for Africa

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World Health Organization: Janie Jeffers, WHO Adviser, Deputy Commissioner, Correction Department, New York City and A. Y. Mgeni, WHO representative for Ethiopia

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United Nations African Institute for the Prevention of Crime and the Treatment of Offenders: Dari Tesha, Officer-in-Charge

Arab Security Studies and Training Centre: Abbas Abu Shama and Ersana A. Mohammad

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Roster: Defense for Children International Movement

Liberation movement

African National Congress: Zola Skweyma, Director, Legal Department

Annex II

LIST OF DOCUMENTS

A. Basic documents

- A/CONF.144/PM.1 Discussion guide for the interregional and regional preparatory meetings for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
- A/CONF.144/IPM.1-5 Reports of the interregional preparatory meetings for the Eighth United Nations Conference on the Prevention of Crime and the Treatment of Offenders
- E/1988/20 Report of the Committee on Crime Prevention and Control on its tenth session
- A/CONF.144/RPM/CRP/1 Draft model treaty on mutual assistance in criminal matters
- A/CONF.144/RPM/CRP/2 Draft model treaty on extradition
- A/CONF.144/RPM/CRP/3 United Nations draft guidelines on prosecution

B. Background documents

- General Assembly  
resolution 43/99 Crime prevention and criminal justice
- General Assembly  
resolution 43/153 Human rights in the administration of justice
- General Assembly  
resolution 43/173 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- Safeguards guaranteeing protection of the rights of those facing the death penalty
- Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order
- Basic Principles on the Independence of the Judiciary
- Model Agreement on the Transfer of Foreign Prisoners and Recommendations on the Treatment of Foreign Prisoners
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice

Declaration of Basic Principles of Justice  
for Victims of Crime and Abuse of Power

Standard Minimum Rules for the Treatment of  
Prisoners and Procedures for the Effective  
Implementation of the Rules

Code of Conduct for Law Enforcement Officials

Standard Minimum Rules for the Implementation of Non-Custodial  
Sanctions and Measures Involving Restriction of Liberty

E.86.IV.1

Seventh United Nations Congress on the  
Prevention of Crime and the Treatment of  
Offenders, Milan, 26 August-6 September  
1985: report prepared by the Secretariat

E/AC.57/1988/NGO/3

Statements submitted by non-governmental  
organizations in consultative status with the  
Economic and Social Council, category II

Code of Conduct for Law Enforcement Officials

A/CONF.121/22/Rev.1

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

E/AC.57/1988/NGO/3

Statement submitted by non-governmental  
organizations in consultative status with the  
Economic and Social Council, category II

International Penal  
and Penitentiary  
Foundation document No. 31

Standard Minimum Rules for the Implementation  
of Non-Custodial Sanctions and Measures  
involving Restriction of Liberty



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