

1957



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/CONF.56/BP/1
26 April 1974

ORIGINAL: ENGLISH

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

Toronto, Canada
1-15 September 1975

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REPORT ON THE ASIAN REGIONAL PREPARATORY MEETING
OF EXPERTS ON THE PREVENTION OF CRIME AND THE
TREATMENT OF OFFENDERS

Note by the Secretary-General

The Secretary-General circulates herewith the report on the Asian Regional Preparatory Meeting of Experts on the Prevention of Crime and the Treatment of Offenders, which was held at Tokyo, Japan, from 16 to 21 July 1973. The report is circulated to provide participants at the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders with a full account of the proceedings of the preparatory meeting.

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INTRODUCTION

1. The Asian Regional Preparatory Meeting of Experts on the Prevention of Crime and the Treatment of Offenders was the first of a series of regional meetings convened by the Secretary-General to discuss the provisional agenda and make appropriate recommendations concerning the preparations for the Fifth United Nations Congress of the Prevention of Crime and the Treatment of Offenders, to be held at Toronto, Canada, from 1 to 15 September 1975, in pursuance of paragraph (d) of the annex to General Assembly resolution 415 (V).
2. The participants at the Meeting are given in annex I. The list of documents before the Meeting is given in annex II. The Government of Canada, which is to be the host Government for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, sent special observers to the Meeting. In response to an invitation, the Government of Australia also sent a special observer.
3. Atsushi Nagashima, Director, Corrections Bureau, Ministry of Justice, Government of Japan, was elected Chairman of the Meeting.
4. The Meeting was officially opened by His Excellency Mr. Isaji Tanaka, the Minister of Justice of Japan, who reviewed the history of the Congress and the partnership between the United Nations and Japan not only in the holding of meetings but also in the promotion of practical measures for the prevention of crime in Asia through the establishment in 1961 of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) at Fuchu, Tokyo. The Institute was now mainly supported by the Government of Japan and had a distinguished record in training and research in crime prevention, with over 700 alumni in the region. The Minister extended a warm welcome to all the participants and hoped that they would have the opportunity to see something of Japanese criminal justice services while they were in the country. Japan would look forward to receiving their expert advice.
5. In approaching its work, the Meeting decided to base its report both on the papers provided by the participants and the contributions to the discussion made at the Meeting. Those contributions to the subjects to be considered at the Fifth Congress specifically of Asian interest were to be emphasized. The participants therefore adopted as the agenda for the Meeting, the provisional agenda approved for the Fifth Congress.

I. DISCUSSION OF THE AGENDA ITEMS

A. Changes in forms and dimensions of criminality - transnational and national

6. The view was expressed that crime was already internationalized to a degree which made it difficult to talk of purely national crime. In any event, crime in one country could not be regarded with equanimity by other countries. Not only were there international implications of national crime caused by tourism, greater mobility, legal or illegal immigration, smuggling etc., there were also international implications of growing crime in one country, just as there are international implications of poverty in any one country. Just as countries have realized that it is in their own interest to help neighbours deal with poverty, it is equally in their own interest to give any help needed to deal with crime. There was, nevertheless, a difference which could be drawn between crimes of a specifically transnational nature, such as drug trafficking, currency offences or aerial hijacking, and the more directly national issues of local crime. Either way, it was felt that both national and transnational crimes were subjects of legitimate concern for an international congress. Of course, there should be no question of interference with national sovereignty. It went without question that each country would deal with crime in its own way. The need was for countries to share their experiences and to work together to improve international co-operation so as to bring international criminal law from its rudimentary and customary state to a condition of greater effectiveness. International crime had outstripped international criminal law and had proved far more resourceful than any measures to deal with it.

7. Whilst concentrating on the immediate issues, the Meeting felt it necessary to acknowledge that crime, national and international, had roots in economic, social and political conditions. Not only had the international community to consider the inequalities of wealth and poverty, unemployment, youth frustration and the effects of mass media, it also had to take account of the fundamental need for a continuous review and perhaps a continuous reconsideration of crime and the nature of crime based on changing circumstances of political and economic activities and the attitudes of society. The complicating effects of tourism, international business and immigration should also be kept in view.

8. It was significant that all countries of the region were experiencing the same types of problems, whatever the local peculiarities. In the national field, almost every country was facing not only a variety of new crimes arising from situations and problems which might or might not be universal but also new dimensions of old crimes. Afghanistan, for example, was struggling with smuggling and with consumer fraud; drugs were flowing over the frontiers, milk was diluted with water and oil extracts from animals were being adulterated with chemicals harmful to the health of the public. 1/ India was putting up a brave fight against such white-collar

1/ All details of the situation in the countries mentioned in this report are as provided by participants at the Meeting in their submissions and approved by them in their adoption of the report.

crimes as profiteering, corruption, consumer exploitation and smuggling, which were tending to assume alarming proportions. Nepal was concerned about the problem of white-collar crime, which in that country was assuming serious proportions, and had totally banned the production of drug-producing plants, except by the Government. Pakistan, in addition to setting up an Anti-Narcotics Board under the Federal Government, had also established a Federal Bureau of Investigation to deal with foreign-exchange racketeering, black marketing, smuggling and various forms of consumer exploitation. In Sri Lanka, extraordinary procedures had been adopted for the investigation and trial of exchange control and currency offences which had been found to have very adverse effects on that country's economy. Indonesia had also adopted extraordinary procedures for economic crimes and various forms of corruption. Laos was trying to deal with drug trafficking and the counterfeiting of both Laotian and United States currency. Singapore had dealt with "pyramid" selling of franchises and had just enacted the Misuse of Drugs Act, which not only provided heavy penalties for drug trafficking and treatment for addicts, but also made it necessary for all doctors to report any patient suspected of being an addict. Malaysia drew attention to the way in which criminal methods spread from developed to developing countries. Not only newspapers, radio and television affected behaviour, but such imports as films and toys or books which encouraged violence came from outside. The Philippines made the point that since the declaration of martial law, the crime rate had been reduced in a striking manner. There was a midnight to 4 a.m. curfew, but it was worth the price to be able to walk in the streets secure from robbery or personal harm.

9. It was proposed that the problems arising under this item of the agenda might be considered under four headings which would obviate any need to become too deeply involved in political issues. All countries were concerned with:

(a) Purely national crimes. These depend upon the national philosophies or political ideologies, e.g. the amassing of wealth might be a crime in one country and a civic virtue in another. With this category there was little scope for international co-operation on preventive measures;

(b) National crimes on which countries might well benefit from an exchange of ideas on their experiences, e.g. corruption, consumer fraud, black marketeering etc.;

(c) National crimes which lend themselves to crime prevention by more direct international co-operation. Smuggling and drug trafficking were obvious examples, but the stealing of masterpieces or currency offences could be made more difficult to commit and easier to detect and control if nations would co-operate professionally to tighten controls and promote prevention;

(d) Transnational crimes. These were sometimes political, but often non-political. Even if one were to exclude delicate political questions, there was the need for international collaboration on such subjects as extradition, limits of jurisdiction etc., to remove some of the obstacles to effective crime prevention.

10. In the discussion, attention was drawn to two main types of change in the national and world situation which sometimes promoted, sometimes hampered and

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always changed crime prevention and control. On the one hand, there were changes in the modes or means of crime as social conditions changed. This was natural; with changes in social conditions the modus operandi of crime and criminals must be expected to change. Some crimes at different periods and in different conditions attract more public attention than others. Also, as technologies change, so do the crimes. On the other hand, there were changes in the public attitude to the types of social deviance which raised the whole question of what the criminal justice system, national and international, should do. Older types of crime were sometimes being eliminated from the penal codes or were being enforced less strictly, whilst such new crimes as pollution and racial discrimination were being introduced. Whatever international machinery for future co-operation was considered, it would be necessary to provide for both of the above categories of modern change in the forms and divisions of crime.

11. While the Meeting concentrated on the professional issues with which the Congress would be seized, it made the point that the countries represented had often had experience of political polarization, sometimes fostered by the neglect of the principles of the Charter of the United Nations calling for the preservation of national integrity and non-interference in national affairs. ^{2/} Some forms of violence and attempts to discredit Governments by organized protest could be fostered from outside a country. Student violence, though frequently resulting from deep-seated societal factors and rapid social changes inside a country, was also characterized by the imitation effect from country to country. Therefore, one of the most important measures for transnational crime prevention was a basic respect for the Charter of the United Nations and a real effort by Governments to work together for mutual security and abandon attempts to subvert other countries. Similarly, while the Meeting sought to avoid any straying into philosophical, ethical or extra-professional spheres, it could hardly ignore the roots of corruption, family disintegration and the eclipse of older traditions and social controls in the progressive decline of moral standards with modernization and city living; the shift of values with individualization, internal migration and the promotion of self-gratification by the importation of foreign symbols of status and importance had all had their effect. Consumer exploitation, violence and crimes of all kinds were more prevalent because standards of behaviour were declining; crime prevention, to be truly effective, presupposed a consensus of public opinion on fundamental values and standards. Moreover, the change in traditional patterns of living had sometimes given rise to new problems, including some unrealistic expectations. One instance given was the introduction of local elections. Under the earlier socio-political systems, vendettas could develop out of disputes over questions of women or land leading to killing, violence or damage to property. Lately the same kind of crime-producing enmity derived from jealousies or antagonism of a political nature - especially in local elections. It was also clear that economic development itself did not necessarily eradicate the social inequalities leading to frustration and possibly crime. Corruption and white-collar offences exacerbated this situation.

^{2/} See Chapter I, Article 2, paragraph 4 of the Charter of the United Nations, which states: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations".

12. Moving to more practical issues for the Congress, the Meeting felt that the question of transnational crime should be separated from the issues of new dimensions of national crime. Of course, a national criminal crossing frontiers might become an international offender and the movement of people often brought an international dimension to national crimes. Nevertheless, the Meeting suggested that it would be more profitable for the Congress to distinguish between the transnational and national aspects of the modern crime problem. It was also considered that a clearer line could be drawn between new forms of old well-known crimes (like aerial hijacking as a form of robbery or extortion) and offences such as corruption in administration and white-collar crime which in some areas may not yet have been codified.

13. With regard to transnational crime prevention, it was felt that, as a first measure, there should be concentration on making law enforcement more effective. The certainty of detection was the best preventive and participants at the Meeting gave instances of agreements for law enforcement between countries which were working well and which could be extended. The main need was for more regular meetings and interchanges of the personnel of different professional services, and for that purpose the essential role of UNAFEI was underlined. More regular reports and publications of UNAFEI were also invited. The Meeting drew attention to the need for regular regional meetings of police, prisons, court and legal officers, as well as administrators, in this field. It was felt that ECAFE should take a more direct interest in regional co-operation to prevent international crime. For that purpose ECAFE should be provided with the expertise it might need to serve the region more effectively.

14. International law provided a universal jurisdiction for false currency offences and piracy on the high seas. It was felt that the time had come to extend that type of universal jurisdiction to air piracy and some other types of transnational crime. Similarly, the extradition laws, which every country had, needed to be augmented by more broadly-based extradition agreements. It was stressed that the work of the International Criminal Police Organization (INTERPOL) needed augmentation by the United Nations partly to bring in countries which did not belong to INTERPOL, but also partly to extend the co-operation beyond the police to all law-enforcement agencies - e.g. public prosecutors or others involved in the preliminary stage of investigations, customs officers, special security forces etc. - as well as to allow consideration of the political crimes excluded by the INTERPOL constitution.

15. As a background to the more effective control of transnational crimes - and some forms of national crime including those national crimes with international implications - the Meeting showed concern about illegal immigration and the related problems of special groups, such as bohemian youth groups or "hippies", which were inclined to introduce permissive attitudes likely to be in conflict with traditional standards. To that should be related some international control of those films and publications which sometimes tended to subvert public morals. In that matter, the Asian countries took a less permissive line than might be favoured in some other parts of the world. Indeed, one member took the special position that effective crime control needed to be based upon fear of God, fear of parents, fear of criticism from neighbours and friends and, ultimately, fear of punishment.

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B. Improvements in criminal legislation, law enforcement, judicial administration and correctional systems with a view to the prevention of crime and the treatment of the offender in the community

16. The extensiveness of this item of the agenda concerned the participants; it was observed that the sections of the subject dealing with law enforcement and corrections seemed to overlap later items of the provisional agenda for the Congress. On the other hand, the issues of criminal legislation and judicial procedure were important and required more detailed consideration than might be possible if all the aspects of the criminal justice system relating to the treatment of the offender in the community were to be dealt with together. For that reason, it was decided to devote most of the Meeting's time to the problems of criminal legislation and judicial procedure and to recommend, in the light of the Meeting's experience in dealing with this agenda, an amendment of the title of the second item to restrict it to judicial procedures and the problems of legislation.

17. Most countries in Asia had both borrowed and received their criminal codes. Some countries, e.g. India, Laos and Sri Lanka, had been given their criminal codes by colonial powers. Other countries - Japan, for instance - had adopted criminal codes of a European pattern which they had then gradually adapted to their own needs. However, the differences between local mores or traditions and the requirements of certain standard penal codes sometimes caused problems. Attempts have been made nearly everywhere in Asia to adjust the criminal code to changing local conditions. Local boards or tribunals, discretion given to prosecutors and the adjustment of penalties were all devices in use.

18. Many participants drew attention to such need for local boards, councils or tribunals and for flexibility in the local application of the absolute or technical requirements of the legal, administrative or more formal codes. The Conciliation Boards of Sri Lanka had relaxed the usual formal rules of procedure and the reception of evidence without, however, abandoning the fundamental principles of natural justice. Singapore was finding ways of adjusting the application of those principles of law which had been used to subvert the very purposes of law by lawyers using technicalities. One member made the point that in developing countries most legislators, even if educated (usually abroad), actually knew little and sometimes nothing of deep-rooted traditions and the cherished values of the local societies for which they were legislating so that, although they could competently legislate for general offences like murder, robbery, or the damaging of property, which were crimes in any society, they were not competent in local traditions and should delegate their responsibilities to local authorities, when necessary, to provide in the law for the needs of local communities.

19. The participants were not unaware, however, of the corresponding dangers of local tribunals with untrammelled discretion or overflexible rules of procedure. The possibility of abuse and the likelihood that many local people would often prefer to be tried by a full-fledged court than by a group of neighbours (who could be biased or affected by an overfamiliarity with the family of the offender) could never be overlooked. Allowing for these difficulties, however, there was a general

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feeling amongst participants that the majesty and technicality of penal codes, backed by hordes of lawyers dealing in opportunities and technicalities, were often not really meeting the needs of the people. The fact that justice was becoming more expensive and that poor people might be finding it impossible to get justice was a problem for Asian societies. Indonesia was using consultation bureaux at its universities to provide a form of legal aid for people who could not otherwise afford lawyers. The legal profession had also set up a legal aid association. Other Asian countries were also ensuring that legal aid was available to the poorer sections of the community. Procedural necessities and technicalities tended to develop with the legal profession itself and care was needed by the Government to ensure that the people could get justice quickly and easily, whether or not they could afford legal aid.

20. The general view of the participants was that the effective prevention of crime and the treatment of offenders required an amalgamation and organization, for the social good, of both formal and informal controls in a country. Asia was undoubtedly losing its informal social controls as rapidly as any other area in the urbanizing and industrializing world; but, unlike some other areas, Asia had for many years been conscious of the need for developing the support of its indigenous values and traditional standards as effective social controls, even if these did not always fit the absolute standards or the procedural requirements of statutory law. Asia often felt a need to resist the incursions of deleterious ideas which had rationale only in foreign values or relevance only to the conditions in the more industrialized and urbanized societies where the family or group loyalties might be weaker and where the opportunities of using the remaining vestiges of social cohesion might not be so readily available. Asia was worried about formal legal systems which might not respond to the needs of Asian society, and for this reason it sought a comprehensive approach to behaviour control which was not limited to legal prescription. It was clear that this occasionally presented problems in interpretation or practice. For example, there could be conflict in a modern society between the demands of a free press and the importance of ensuring a fair trial and, whilst endorsing the need for a free press, some members felt no aversion to a measure of control of the press if this seemed necessary in the general public interest. Again, Asia viewed with some concern the interrelationships between the mass media and judicial procedures which might sometimes be conducive to a court hearing becoming either a forum for political protest or exhibitionism or, perhaps, might sometimes be conducive to financial benefit for those offenders selling their experiences to the mass media to court publicity and notoriety in a profitable way.

21. The participants saw in all this the need for a more careful definition of human rights. The protection of the human rights to free speech and freedom of movement for the majority probably required restrictions on the freedom of unscrupulous persons, especially when this might impede the operations of justice. In the Philippines, regulations were now contemplated to provide that the media attacking an individual be obliged to allow that individual equal space or equal time to reply. It was thought by participants that the mass media themselves had professional obligations to achieve their own standards of conduct or a code of ethics, and that the Congress might seek a movement towards an international code

of standards for the public information systems of the world. However, the Meeting recognized that in the last analysis the Government had an obligation to protect the public. At the same time, it was appreciated that effective public participation in crime prevention required public information; the issue was how to provide adequate and objective public information without the sensationalism or misinformation that subverted the ends of justice.

C. The emerging role of the police and other law enforcement agencies, with special reference to changing expectations and minimum standards of performance

22. Participants welcomed the inclusion of this item on the agenda because of the world-wide concern with the precise role, status and significance of law-enforcement services in the general concern to prevent crime and improve the quality of life. It was stressed, however, that whilst the tendency would be to talk about the police, it should not be overlooked that law enforcement involved a number of other agencies in the Asian region. There were para-military forces deeply involved in the policing of some countries: some areas had military régimes; some countries had special village police forces, railway police, business security guards etc. Elsewhere drug-control agencies, anti-corruption bureaux and other such services had been established. In addition, there were the customs, immigration and security services with law-enforcement obligations.

23. The ambivalence of the public expectations of the police in Asia received special attention. It was obvious that people in the region, conscious of their rights and hard-won freedoms, were jealous of the powers of the police and wished to avoid a police force with untrammelled powers. In various parts of Asia, the police had extensive powers to interrogate and hold offenders; such powers were disputed by populations with improved standards of education and higher expectations. Against this inclination to restrict the powers of the police had to be placed the demands by many populations for the police to become more positively involved in improving social standards. Each new problem in society led to agitation for new laws and more effective enforcement. Sometimes the public expectations of the police were unrealistic. The public usually expected the police to be efficient, impartial and above corruption. But these standards for the police could only be capable of achievement if the public co-operated in making the police work efficiently, if the impartiality of the police were respected by all political parties (even when in power, and at all local levels) and if the public (of which the police are merely a reflection) were itself more generally above corruption in its various forms. The fact that the police were usually controlled by a political minister gave rise to suspicions of partiality - especially in periods of political stress. The police obligation to protect property might sometimes include an obligation to protect the interests of an acquisitive group in society, sometimes with property questionably acquired. Finally, when society was suffering a general decline in public morale, the policeman could hardly be expected to be an exceptional example of righteousness. High standards of police performance were naturally necessary if the police were to achieve respect and thereby avoid corruption and increase efficiency, but these ideals presupposed a police system

with a status and position in society very different from that prevailing in many Asian countries where college graduates were attracted to nearly any other type of career.

24. Quite generally in Asia there was the need for the upgrading of the policeman. It was appreciated that in some other parts of the world the policeman's standard had fallen below that of the public he served. In Asia it was more the status of the policeman relative to the other services of the government and to the level of educated groups generally which needed attention. In some countries, a distinction could be drawn between the officers and other ranks. The educational level of officers had sometimes received more attention than that of other ranks so that at the level of contact with the public, the image of the police suffered. This needed serious attention. Some countries had made great progress in this direction, and figures were given for educational levels of some police forces which left little to be desired; elsewhere, however - and in the majority of cases - the level of police education was too low for the complexity of the task the policeman was expected to perform. Some countries were still dealing with illiteracy among the lower ranks of the police. However, the problem was recognized in the region and efforts were being made to improve the police. The need to do this was strengthened by increasing pressure being felt nearly everywhere in Asia for a greater measure of specialization in the police and the call for a greater degree of centralization. The Meeting noted that it was not only the educational level of the police which required attention in developing a force capable of responding to higher expectations and more complex responsibilities. In some countries of the region the low ranks of the police were provided with food rations or subsistence payments to protect them against the effects of inflation.

25. There would appear to be advantages in a review of legislation to avoid the police becoming involved in a wide range of extraneous duties unrelated to the preservation of order and the prevention of crime, and also in restricting the extent of police power where this was unregulated and open to abuse. On the other hand, it was thought that police agencies should develop a wider range of social services in order to enhance both the police function and its public image. A public opinion survey carried out in Japan recently had shown the public to be mainly in favour of the police concentrating attention on the prevention of crime and, in Iran, a survey of people of different educational levels had indicated that most people wanted the police in a preventative role and that this desire was more pronounced as the level of education rose. The implication of such investigations was that the police should be extending their activities in the direction of more preventive social services. This indication, taken together with the degree of specialization in police work already enjoined by the existing need for security, criminal investigations, forensic sciences, traffic services, court officers and crowd control would tend to create not one police force but, in fact, a variety of separate services with quite disparate functions being comprised under the title "police". The extent to which all such functions should be incorporated in the "police" system was a matter for serious consideration in each country. From a planning point of view, the resources given to the police to enable them to provide such social or educational services to the public could just as well be provided to the health, education, administrative or social services of the government instead

of the police. However, to carry this to an extreme would be to leave the police with only a negative or restrictive crime investigative function. A balance was needed. The police should not be deprived of social functions; on the other hand, they should not be expected to become more of a social service than a police agency.

26. The ambivalence of the public in its demands and expectations of the police, as well as the problems of providing the necessary crime prevention services via the social services or the police, created a contradictory situation in modern society which was naturally transmitted to the police. And it created within most police forces a kind of identity crisis. Moreover, in Asia the problem was compounded by the different histories of the police. For example, in Singapore in colonial times there had been few Chinese police officers. The policy had been to recruit the police from other colonies. The result had been a tradition of the police remaining aloof from the people. Since independence, the Government had moved in the opposite direction, recruiting Chinese, arranging for them to live with the people in the same housing areas, developing a special constabulary and vigilante corps which ordinary citizens could join to take part in the prevention of crime and the preservation of order.

27. In the Philippines there were national police bodies, e.g. the Philippine Constabulary under the Department of National Defense and the National Bureau of Investigation under the Department of Justice. In addition, each of the many cities and municipalities had its own local police department. In 1969, the total funds appropriated by local governments for the operation of 1,478 police departments amounted to some 70 million pesos, i.e., \$US 0.30 per capita of the population. The lack of policemen had obliged the Government to permit the establishment of private security agencies to perform special guard duties for business and industrial organizations. There are now 350 private security agencies operating for private enterprises at a cost of 93 million pesos. Efforts are being made to integrate the various police agencies in the metropolitan areas to improve efficiency and pool equipment and resources. The Philippine Constabulary has created a Home Defense Office to bring about stability in trouble spots through persuasive methods. This involves the police in pacification campaigns, civic action and the rehabilitation of persons previously detained. The police also assist people in reforestation, rural electrification, construction of roads and bridges, relief operations, and relocation of urban squatters. In Pakistan, prior to independence, the police force was said to have been conceived as an instrument of oppression, with the prevention of crime as purely incidental to the maintenance of the order required for the Administration to work. Pakistan since independence had achieved a great deal in improving relations between the police and the public, but much remained to be done. In Indonesia, the State Police as a separate body deals with crime whilst there are also local forces to deal with the preservation of order at the local level. The ranks of police members are equivalent to those of the military. After the occupation of the city of Colombo, Ceylon, ^{3/} by the British, law and order was first maintained in the territory by the military. A magistrate was appointed in 1806 and the first detailed regulations for the policing

^{3/} Now known as Sri Lanka.

of the city were enacted. Since then the police had continued to develop on the lines of the Royal Irish Constabulary. However, from its inception to the pre-independence years, the police primarily served colonial interests. For example, the police ordinance of 1865 made provision for the establishment of police stations to protect the interests of European coffee and, later, tea and rubber planters. Provision existed for the establishment of punitive police forces in areas that showed resistance to the colonial administration. Again the police were used to support the plantations by harassing those who did not work. European officers dominated senior ranks and were mainly seconded from the armed forces. Since independence, policing priorities have changed; they have been based on objective considerations rather than class needs. Recruitment has been from all parts of the Island irrespective of social strata. Close liaison has been established with rural volunteer groups, with the People's Committees and the Conciliation Boards. It is not unusual to find police actively engaged in community projects. Nevertheless, there has been some public concern with the arbitrary use of police power. For example, the Police Commission has recently recommended the creation of an ombudsman to inquire into complaints against the police and the demilitarization of the police uniform. Nevertheless, the demilitarization of the police could not be fully implemented because of the insurrection of April 1971. At that time the police played a major role in the maintenance of State security, and it is therefore likely that for a few more years a police service with a para-military structure will have to be accepted. The needs in Sri Lanka were higher recruitment standards, greater specialization, enlightened training programmes and an over-all improvement of police administration.

28. In general, the Meeting recognized that the historical background of the police function served to affect the public image, and this would have its influence upon both the public expectations and the levels of performance. While the position varied, in general the Asian countries were in a process of transition from the older repressive type of police function to more developmental police activities with a greater degree of public participation. Nevertheless, Asia still suffered from the contradictions inherent in the expectations and standards of the police and the public in a modern society. Most of the requirements for changes were for changes in attitudes, in the levels of recruitment and in specialization within the police forces. The tendency was to centralize police activities and to develop ways of involving the police in broader developmental functions in close touch with local communities.

D. The treatment of offenders in custody, with special reference to the implementation of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations

29. In many respects Asia shared the problems of correctional institutions being experienced by countries in other parts of the world. Generally, the prisons were overcrowded and there was wide-spread dissatisfaction with the efficiency of the prisons in preventing reconvictions. The prisons of Sri Lanka were old, equipment was outdated and the tendency was to concentrate on open institutions which required only a very modest capital outlay. At the insurrection in 1971 the prisons designed

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for 3,000 were already accommodating 6,000 persons. Another 18,000 prisoners were suddenly committed and three universities had to be taken over as prison camps until other types of temporary camps could be built. Gradually the prisoners were released. Half the total were released in the first year and a Criminal Justice Commission with powers to go beyond the usual restrictions of the rules of evidence and procedure was established to deal with the others. Welfare officers were recruited through the Probation Department and education was continued as far as possible in the camps.

30. Pakistan had a problem of overcrowded prisons. The Province of Punjab, with 20,000 prisoners, had accommodation for only 13,500; buildings were old and dilapidated. The Government of Pakistan has appointed a Minister of State for Gaols and established a Gaols Reform Committee to deal with the situation. India, too, had been tackling the problem of overcrowding. It had been observed that a large percentage of those in prison were there for short periods. One of the legislative measures contemplated was to direct courts to provide special reasons for awarding sentences of imprisonment of less than three months.

31. The Meeting expressed concern that the observation of minimum standards for prisoners imposed obligations for the welfare and basic living standards of prisoners which were not usually imposed on countries for the benefit of law-abiding members of the communities. Whilst recognizing the universal validity of the United Nations Standard Minimum Rules for the Treatment of Prisoners, therefore, the Meeting wished to make the point that those would sometimes have to be interpreted in the light of existing social and economic conditions. Sometimes the Rules would need to be regarded as ideals rather than as minimum levels to be maintained. It was noted that some countries (India, for instance) found no difficulty in implementing the United Nations Standard Minimum Rules for such reasons.

32. To deal with the correctional problems in Asia and to develop more wholesome methods of dealing with crime, the Meeting drew attention to the need to link prisons with the planning for development in the different countries. Sri Lanka, the Philippines, Japan and several other countries had deliberately geared the prison system to their developmental needs. With limited resources and the more numerous crimes associated with social change and economic growth resulting in the flow to prisons, the developing countries were obliged to forge this link between development needs and prison obligations. With adequate protection for human rights, there seemed to be no objection to such a positive linking of opportunities and problems in a country. Indeed, there could be many advantages gained from providing more creative and wholesome work for persons in custody.

33. At the same time, the Meeting recognized that the problem of overcrowded prisons could best be met by finding more effective ways of dealing with offenders. For example, the overcrowding of prisons in Iran was obviously related to the fact that that country did not have a parole system and its probation system was relatively under-developed. Alternative ways of dealing with persons awaiting trial, more generous use of the bail system and the finding of other remedies than imprisonment would help. Singapore still used corporal punishment and believed that to be better for the treatment of 16-18-year-old youths operating protection

rackets and indulging in other types of vicious crime in Singapore. Their incarceration in existing institutions often led to the contamination of other young people. Malaysia also supported the use of corporal punishment as an occasional alternative to imprisonment, especially inside some of the institutions themselves. Singapore had dealt with its single case of a bomb hoax by corporal punishment and claimed that that had been an effective general and particular deterrent. Obviously it was hoped that the need for such physical remedies would disappear but, in the light of modern realities, some of the Asian participants felt that when options were limited a restrained recourse to physical remedies could not be totally excluded. Sometimes the effects were a great deal less deleterious for the individual than incarceration in some of the old, dilapidated, contagious and overcrowded institutions.

34. The Meeting repeated the theme of difficulties in implementing the United Nations Standard Minimum Rules for the Treatment of Prisoners which had been advanced in the working papers (A/CONF.43/1-4) ^{4/} for the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders - lack of resources, lack of trained professional staff, the too frequent use of imprisonment leading to overcrowding etc. Moreover, the Rules were not as readily available as they should be in the local languages and, above all, were not sufficiently publicized. There was a suggestion that a study of the application of special rules in particular countries might be followed by a regional meeting of experts to prepare a report on future implementation to be considered by a regional seminar of Government representatives. The participants tried to deal with more specific problems in prison labour, accommodation and vocational training etc. and described conditions in their own areas, but concluded that the overriding problems of limited resources and skilled manpower were still the most serious obstacles in Asia to the implementation of the Rules.

E. Economic and social consequences of crime:
new challenges for research and planning

35. A number of participants considered this item to be the most important on the agenda because the full dimensions of modern crime in social and economic terms had never been adequately conceptualized, calculated or appreciated. Apart from the considerable expenditures which most countries incurred on direct crime prevention and control services, such as the police, the prisons, the courts, parole, probation and special educational facilities, these same countries had incurred considerable losses as a result of the damage done by crime not only in its commission, but in its tangible and intangible effects on families, institutions, life styles and motivation. If one added the expenditures of business on private security, the cost of the vast industry in safety devices and the insecurity engendered in private citizens with the consequences for behaviour, the ramifications were immense and had never been traced.

^{4/} See Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (United Nations publication, Sales No. E.71.IV.8), annex III.

36. Attempts to calculate the damage of crime were usually restricted to the more obvious expenditures or to the quantifiable items, but if all other costs and financial implications were to be added, "the opportunity costs", the amount lost to a country because of the wastage of resources which could have been more profitably used, or the things people might have done profitably if they had not been preoccupied with crime, then the economic and social consequences of crime would really stagger the imagination. As one participant put it, corruption, as a phenomenon, blessed the receiver and blessed the giver, both of whom obtained benefits, but the great loser was the public, which had been deprived of something - or the consideration of whose interests had to be deferred because of the offence. The public probably never knew the extent of its losses and therefore never really realized the costs of crime.

37. Similarly, where crime was rampant it was impossible to adequately calculate the effects upon the motivation of people and to accurately present the loss to the country from their preoccupation with the security of their lives and property and from the diversion of their interests from direct productive activities.

38. The Meeting took note of the fact that recent studies ^{5/} in the Secretariat had indicated that countries were spending between 3 and 10 per cent of their total budgets on identifiable crime-prevention services. For example, in Japan, it had been calculated in a study of the 1971 expenditure on crime that a sum of 630,653,000,000 yen (\$US 2,335,700,000) had been spent for police, prosecution, trial and the correction and rehabilitation of offenders. This constituted 3.8 per cent of the aggregate State budget and 0.8 per cent of the gross national product. That, however, was not more than a fraction of the losses due to crime in a community. Japan had calculated that the total sum of money lost by the victims of robbery, extortion, theft, fraud and embezzlement in 1972 had been 82,789,000,000 yen (\$US 306,630,000). But that, as in any other country, comprised only the losses known from reported crime; reported crime might be only 15 per cent of the total crime committed. If, therefore, this loss were multiplied six times and added to the direct expenditures on the police, courts, prisons etc., the effect on the economy of the country would be beyond anything so far appreciated by the public and the losses in terms of productive activity would be indeed tremendous.

39. Taking all the above into account, it became clear to the Meeting that crime-prevention services alone in the professional sense of the term, could not hope to deal with such a huge problem for any nation. It took note of the fact that there were two schools of thought currently competing for attention in dealing with the issue. One school sought to increase expenditures on official crime prevention with a view to repressing criminal activities and eventually reducing total costs. In Asia, that approach was probably best exemplified by countries like the Philippines, which had used martial law, and Sri Lanka, which had invoked the provisions of the Public Security Law. Both claimed considerable reductions in crime rates as long

^{5/} "The place of criminal justice in comprehensive development planning" (to be issued) and "Crime prevention and control: note by the Secretary-General" (A/8844).

as restrictive curfews and tight public controls were maintained. The problem here was that such measures could only be of limited duration and must eventually be replaced by informal social controls of behaviour and higher standards of public conduct. The other school of thought was permissive, seeking to restrict much more drastically the operation of the criminal justice system and seeking to tolerate behaviour which in previous times would have been subject to legislation and prosecution. For example, in Europe and other parts of the world many countries were decriminalizing such offences as vagrancy, homosexuality, abortion, prostitution, and so-called "victimless crimes", or crimes without complainants, but generally in Asia the movement to decriminalize such offences was not favoured. In some countries in Asia, however, suggestions were made that countries should go further than this and decriminalize a great many other types of activity which previously would have been the subject of criminal prosecution. Already in some of the major cities in Asia the police were not interested in thefts of property below certain levels of value and, in at least one country in the region, it was being suggested that shop-lifting be removed from the criminal code, the implication being that an affluent society did not need to pay so much attention to the protection of private property as it had done in the past. With values changing, this school of thought regarded the criminal justice system as grossly overburdened with legislation and in need of streamlining to take account of the more permissive nature and more tolerant attitudes of the general public, especially in large cities.

40. However, from that kind of argument, the losses for certain sections of the community were still considerable and the attempt was being made in a number of countries to ensure against losses and to pass the premiums for such insurance on to the general public in the form of higher prices. That raised the whole question of who should carry the burden of crime in a country - which section of the public should pay. In the past the system in most countries had been for the offender to carry the blame and the burden of crime. If some modern ideas were to be accepted and the burden were to be shifted in a more general way to the public, the rationale would be that since crime arose from certain economic, social, political, or other environmental conditions, the offender alone could not be held totally responsible.

41. In that connexion, the question of how representative the usual criminal community was of the public as a whole naturally attracted attention. If those offenders prosecuted and subjected to sanctions were no more than a fraction of those actually committing crime and represented only a 50 per cent rate of success in detecting offenders responsible for the amount of crime reported to the police, then it had to be recognized that total crime was much more prevalent and much more general in society than was normally supposed. That being true, there was need for a reorientation of both official and public attitudes to crime and a greater readiness to accept the offenders as not abnormal, but perhaps even normal, persons. There would be some exceptions to this in the case of pathological killers or professional criminals; moreover, organized crime could not be regarded with such equanimity. Nevertheless, if it were true that it was difficult to draw a line between those prosecuted and those not prosecuted, then various issues emerged such as the criteria in society which determined that one group would be prosecuted and the other would not. In some countries in Asia the issue had already been raised that there was discrimination implied in the way in which the police forces tended to concentrate on the poorer or less privileged groups in the community. It might

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be true, too, that legislation had a similar bias to deal only with those easily prosecutable. That could be a situation arising out of the present methods for detection and prosecution of crime. Or it could indicate a need for reorientation of the legislative and prosecutorial authorities so as to ensure that all classes and all levels of society were subjected to the same scrutiny of behaviour by the police.

42. The policy issue and the planning implications of those considerations were deemed by the Meeting to be of the utmost importance and in need of very special consideration at the Fifth Congress. The Meeting observed that some of those issues had been raised in the working paper entitled "Social defence policies in relation to development planning" (A/CONF.43/1), 6/ prepared for the Fourth Congress in 1970, and very profitable discussions had taken place. In view of the realities of those problems in the Asian region, which had a growing concern with white-collar and other non-conventional types of crime, as well as with the political implications of criminal justice administration, the participants hoped that the Fifth Congress would move from the area of declaring the issues to the more practical area of developing solutions. The two schools of thought mentioned in the discussion were likely to be at opposite extremes and were both inadequate attempts to deal with the normal issues of growing crime in a society. There could be no substitute for the morale of a nation and its standards of behaviour would derive from this. Efforts, therefore, to promote the observation of fundamental values and the growth of a wholesome economy with a higher quality of life were very necessary.

43. Finally, the Meeting observed that those issues called for a rethinking of research priorities. Everywhere in Asia, there was the need for a great deal more research and for more extensive studies of such crime-prevention subjects as criminology, penology, judicial administration etc. But that could not be research as previously construed. Close collaboration was required between planners, decision-makers and research workers. Too much research in the past had been irrelevant to public needs and, in particular, even though often government-supported, had been related to academic requirements rather than policy necessity. The Meeting did not question the need for continuing academic studies of the deeper issues involved in crime prevention. But it wished to emphasize the need for a type of research which would address itself to the issues of the day and in which those charged with the allocation of resources would be aided to make more rational and effective decisions. It was noted, for example, that the time factor alone could make a great deal of research irrelevant. The answer could not be produced for a number of years, by which time it might no longer be required. In that situation the need for more operational research, whereby research became a continuing part of criminal law administration and criminal justice practice, needed wider application and more careful evaluation.

6/ See foot-note 4.

II. THE CRUCIAL POSITION OF THE UNITED NATIONS ASIA AND FAR EAST
INSTITUTE FOR THE PREVENTION OF CRIME AND THE TREATMENT OF
OFFENDERS IN ANY FUTURE ACTION FOR CRIME PREVENTION IN THE
ASIAN REGION

44. In the course of the Meeting, the participants had an opportunity to visit UNAFEI and to consider its role in the future work for crime prevention which they were proposing for the consideration of the Fifth Congress in 1975. It was the unanimous view of the Meeting that the countries of the Asian region and the United Nations were not making adequate use of the resources and facilities available and were thereby losing great opportunities for a more extensive and effective development of crime prevention in this area. Although it was not specifically mentioned in the agenda, participants insisted that implementation of more effective action for crime prevention in Asia would depend very large on the more extensive use of UNAFEI. In that respect, participants suggested that consideration of the Institute was really implied under all items of the agenda. They wished to place on record their conviction that whatever item of the agenda they had been considering, they could not think of any better way of achieving improvement in the Asian region than by the use of UNAFEI and its 700 alumni. There was, for instance, no better way of studying and developing answers to the new problems of transnational crime than by research to be conducted by the Institute in the region and by adequate training programmes at all levels.

45. The Meeting noted with appreciation the efforts already being made by UNAFEI to develop courses in social defence planning and studies of criminal justice reform which had relevance to both the first and last items of the agenda. The annual short courses for senior administrators were considered to be of special value in that connexion. With regard to items 2 to 4 of the agenda, participants saw great possibilities in using UNAFEI to help the different criminal justice and crime-prevention professions in the region to share their ideas, deepen their research programmes and improve their training methods. The use of UNAFEI as a training centre for trainers had particular appeal; and the more extensive use of its information and advisory services, as well as its capacity for technical assistance to the region, was of special value. The Institute could provide experts and support for national efforts to improve crime prevention. In closing the session, the Meeting therefore wished to underline once again the importance of doing more to develop and broaden the work of the Institute and to improve its leadership in the region.

Annex I

LIST OF PARTICIPANTS

Experts invited by the Secretary-General

Adnan bin Haji Abdullah
Director of Social Welfare
Ministry of Welfare Services
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Oemar Seno Adji
Minister of Justice
Ministry of Justice
Djakarta, Indonesia

S. I. Balakrishnan
Joint Secretary
Ministry of Home Affairs
New Delhi, India

A. W. Ghows
Solicitor-General
Attorney General's Chambers
Singapore

S. D. Jamy
Deputy Director (Police)
Civil Service Academy
Lahore, Pakistan

Nihal Jayawickrama
Secretary
Ministry of Justice
Colombo, Sri Lanka

Atsushi Nagashima (Chairman)
Director
Corrections Bureau
Ministry of Justice
Tokyo, Japan

M. Husain Nusratty
Legal Adviser
Ministry of Justice
Kabul, Afghanistan

Gen. Vicente R. Raval
Director of Prisons
Department of Justice
Rizal, Philippines

Ramananda Prasad Singh
Attorney General
Ministry of Justice
Kathmandu, Nepal

Phagna Khamking Souvanlasy
Acting Minister of Justice
Ministry of Justice
Vientiane, Laos

Puang Suwanrath
Deputy Minister
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Annex I (continued)

Experts invited by the Government of Japan

Fumiyoshi Ayata
Director
Safety Department
Criminal Investigation Bureau
National Police Agency

Waro Chiba
Director-General
Criminal Affairs Bureau
Supreme Court General Secretariat

Eisaku Kimura
Director
First Criminological Research Division
Research and Training Institute
Ministry of Justice

Renzo Matsushita
Director-General
Pharmaceutical and Supply Bureau
Ministry of Health and Welfare

Toshio Suzuki
Chairman
Kanto Regional Parole Board

Zen Tokoi
Director
United Nations Asia and Far East
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(UNAFEI)

Yoshiho Yasuhara
Director-General
Criminal Affairs Bureau
Ministry of Justice

Annex II

LIST OF DOCUMENTS

"Standard Minimum Rules for the Treatment of Prisoners and related recommendations", reproduced from the Report of the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (United Nations publication, Sales No. 56.IV.4).

Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Kyoto, Japan, 17-26 August 1970:

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| A/CONF.43/1 | Social defence policies in relation to development planning
Working paper prepared by the United Nations Secretariat |
| A/CONF.43/2 | Participation of the public in the prevention and control of crime and delinquency
Working paper prepared by the United Nations Secretariat |
| A/CONF.43/3 | The Standard Minimum Rules for the Treatment of Prisoners in the light of recent developments in the correctional field
Working paper prepared by the United Nations Secretariat |
| A/CONF.43/4 | Organization of research for policy development in social defence
Working paper prepared by the United Nations Secretariat |
| A/CONF.43/5 | <u>Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders</u>
(United Nations publication, Sales No. E.71.IV.8). |

Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Toronto, Canada, 1-15 September 1975:

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| A/CONF.56/Misc.1 | Discussion guide for regional preparatory meetings for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders |
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