

PROCEEDINGS
WORK SESSIONS
REVIEW OF THE
WORLD BANK QUARTER
LY MEETING
TABLE OF ASSISTANCE
AND PROJECTS

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World Peace Through Law Center

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The volume is bound as a presentation and as convenience for a quick review -- in preference to handling seven separate transcripts of record.

Paul P. Cooke, Consultant

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P R O C E E D I N G S

MR. : Ladies and gentlemen, before getting to the immediate business of the meeting, I've been requested to inform you that any of you that are planning to attend the luncheon, today, had best get tickets immediately, otherwise, there will be no tickets available in a short time. But I understand that it is a matter of immediate urgency for those who wish to go to get the tickets now.

And now, ladies and gentlemen it is my great pleasure this morning to act as honorary chairman of this particular meeting, I have been solemnly assured that the task of the honorary chairman is to be seen rather than to be heard and for what little ornamental props as I serve here, I am simply to introduce to you the topic and the speakers.

The real business of the meeting will be conducted by the gentleman on my left who is an expert, Mr. Jethmalani, who is advocate of the supreme court of India. So with the procedure which will be followed, is that each member of the panel will introduce himself to you and give you a sufficient background detail of his own career to enable you to understand his interest in the subject. So far as I personally am concerned, I am a justice of the supreme court of Ireland and enjoying a wide constitutional jurisdiction. There is nothing which doesn't at some stage come before my court and the treatment of prisoners happens to be one of them because in Ireland

in recent years a very wide development of what in the United States would be known as the post conviction habeas corpus which goes to the highest court in the country a chance to go into the fundamentals of the rights and wrongs of prisoner's complaints.

Now, it occurs to me that why this discussion centers upon the recommendations of the United Nations on the standard minimum rules for the treatment of prisoners and that many of you may never have seen these rules. Now the primary purpose of the discussion is to discuss how these might be implemented but if you have not seen the rules, that may be somewhat difficult to follow, but the rules are somewhat long and detailed. And, instead of anybody attempting to read all the rules to you, Mr. Skoler, in his working paper, will cover them to a sufficient extent to enable you to follow their place in the general discussion which will follow.

Suffice it to add that it is a topic which is more than of academic interest or abstract humanitarianism because every country now has had experience of let's say in the development of movements of prisoner's rights and some countries there are even prisoner's unions. So the implementation of these rules and the problems which may attend the implementation of these rules are of very great importance to every country. And I'm sure the discussion which will now be continued by persons more learned in the subject than myself, will throw a

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great deal of light upon that. So, therefore, it gives me very great pleasure to yield the place to the presiding officer, Mr. Jethmalani, who will, from now on conduct the proceedings. Thank you.

MR. JETHMALANI: Thank you Mr. Justice Walsh, ladies and gentlemen. Speaking for myself I have never understood why a chairman can't continue to be a presiding officer. I think that Mr. Justice Walsh could do it so much better. Can't hope to emulate him. There seems to be a lot of curious tradition in this conference, that the chairman is under no obligation to speak on the subject of discussion. He may if he chooses to, but he need not. On the other hand, the presiding officer is (unintelligible) obligation not to speak at all.

He is supposed to merely conduct the show, according to his rules. But for a very special reason, ladies and gentlemen, I propose to break with tradition for a short while and that is because I wish to share with you a very heartwarming recent experience back in Bombay and which is so recent that it couldn't be the subject matter of any recorded papers of this conference, it could only be orally communicated and shared.

But before I do that, let me say a couple of things that might help to keep our deliberations on an even keel. First of all, as you will have noticed, the topic of discussion is implementation of the UN adopted rules. Thought it is not

our intention to exclude all discussion on the substantive content of the rules or the philosophy underlying the rules, (unintelligible) been debated for the last 20 years, and the civilized community of nations has come to adopt them in the shape of recommended resolutions by the general assembly. I think it might be a little wasted effort if we debate issues which should be deemed to be closed. The main topic is really implementation of these rules and unless a particular speaker finds that the philosophy of the rules or the substantive content of the rules impinges upon the process of implementation I suppose we should concentrate on the latter part.

Then, ladies and gentlemen, there is one thing which coming from a very poor country, I must especially mention, that the problem of implementation is unfortunately tied up with the financial resources of every government and particularly the poverty level which operates in a given country. You might concentrate on these peculiar problems, these unfortunate countries around the equatorial belt and India happens to be one of them and I don't wish to sound morbid this morning, but let me only tell you that in the monsoon season in Bombay, which roughly extends from June to September, a large number of poor people in the city of Bombay, who have no square meal a day and who don't have a roof over their heads to protect them against the elements, commit all kinds of petty offenses, plead guilty to those offenses and find their

way into prisons. Because that's the way they qualify for life in jail which is slightly more comfortable (unintelligible) comfortable than life outside.

Now this is the kind of conditions that prevail in some other countries and I think India is fairly representative of quite a few countries. And, I would request you to concentrate on the plight of these countries and how they are supposed to go about the task of meeting the financial obligations which implementation of these rules and laws.

And that brings me to the topic -- to the subject which I wanted to share with you. Last year my country has embarked upon a very debatable, dubious experiment of meeting (unintelligible) economic stability by preventive detention of offenders. Preventive detention without trial of offenders who are suspected of committing offenses of smuggling and (unintelligible) and so on. Now, I'm not going into that, that's a very debatable issue, and so on. And, I've no intention to debate it here. But, all detention cases ultimately lead to people being locked up in buildings and it is the condition of these prisoners who are not convicts against whom (unintelligible) there is no evidence on which a conclusion of guilt could be based.

And this statute which was passed by parliament merely said that when a person is detained he shall be detained at such place and on such conditions as the detaining author-

ity would prescribe. And the detaining authority happens to be the state government and the state government throughout the country prescribe a large number of rules and these rules, for example, say that (unintelligible) shall not be able to use his shaving kit, he shall have only the services of the jail barber. He shall not be able to take food of his own choice. He shall either buy food at the jail canteen or take food which is supplied by the jail authorities.

There are severe restrictions placed on interviews, correspondence, playing of indoor games like chasing guards and so on. And we took up this matter last month before the Bombay high court and you know today in our countrys fundamental rights are under suspension because the proclamations of emergency. And the only argument which we could make before the Bombay high court was that here in the civilized community of nations, (unintelligible) mortal rules sanctioned by the United Nations has laid how even convicted prisoners are going to be dealt with by the national states and is it therefore not proper that at least those who are not convicted but are merely suspected of crime and who are being detained without trial should be subjected to better conditions.

And I'm very glad to say that the high court of Bombay accepted our contention and the judgment of the Bombay high court expressly proceed upon a reference to and is based upon these rules which you are debating this morning. And,

ladies and gentlemen, the court came to the conclusion that the parliament could not have intended to confer powers of detention and confer powers of detaining under conditions which are repugnant to the opinion of the civilized community as reflected in these rules. And the rules form a very integral part of the judgment and that at least you find two brilliant judges struggling under circumstances of great hostility and great pressure to uphold the rule of law and the liberty of even those who are suspected of having committed crimes.

I would request you, ladies and gentlemen, that these two anonymous judges in a faraway place like Bombay should meet your secret but for that reason not the less eloquent oration at least in your hearts and your minds. They are struggling to preserve democracy in a very far corner of the earth.

And, lastly, ladies and gentlemen, I do wish to say what I would like to say at every session, that we lawyers come here in a very individual capacity and not as representatives of our governments and I think lawyers, with their objectivity with their intellectual freedom should be able to rise above the (unintelligible) and follies of our national governments and should be able to call a spade a spade. And I have found in the last many sessions which I have attended of this conference, I have been attending this conference for 1965 onwards, I find that there is a tendency to support the national policies in many of our deliberations, sometimes you may solemnly and

genuinely believe in the efficacy and goodness of your national policies, but I hope lawyers will rise above it and will be free to criticize the processes of implementation and any departures from what we conceive in all conscience to be right to do. And it is with these preliminary remarks that I might now ask our distinguished writer of the working paper, our good friend, Daniel, to get up and introduce his paper as briefly as he can and I assure him that he will have all the time at his command. Thank you.

MR. SKOLER: Chairman Walsh, presiding officer Jethmalani, fellow panelists and colleagues who are attending this session, I suppose that I'm the first speaker since the chairman is not to address and the presiding officer is even more clearly not to discuss content, but I hope that I -- in my brief remarks can offer you the kind of important story that you just heard from presiding officer Jethmalani.

That was a very impressive accounting of the implementation of the standard rules in Bombay in the situation of preventive detention. For the past four and a half years I have been director of the American Bar Association's commission on correctional facilities and services. As you know, the American Bar Association is our nation's professional organization of attorneys and at the request of chief justice Burger, ah, some four, well five years ago in 1970 it created a commission an inter-disciplinary commission to look into the problems of

prisons and jails and corrections in the United States. The plea from the chief justice being that while lawyers had devoted a great deal of time to the processes of enforcement and trial and conviction, that they were ignoring, perhaps, the most important component of the criminal justice, of all, and that is what is done with the offender after conviction. This was a public service effort of the American Bar Association and it- was in the course of this and acquainting myself and our project with the correctional problems of the United States that we became interested in the world scene and, particularly, the United Nations standard, minimum rules for treatment of prisoners.

It was my honor to contribute an extensive working paper on this subject, which I hope most of you have and what I will do is merely comment briefly on the content of that paper, within the appropriately short time limits allotted to panelists. My comments shall be directed to three questions. What are the standard minimum rules for treatment of prisoners, the second, being are they being implemented throughout the world, today, and finally what legal enforcement mechanisms exist to assure the implementation of national prisoner treatment codes that are either similar to, or patterned after the United Nations rules because, obviously, the rules themselves are not the operative law in any particular nation.

First, what are the rules? The standard, minimum

rules for treatment of prisoners are really a rather unique product of the United Nations. They are the only body of rules within the total criminal justice area that the United Nations has seen fit to formally adopt and endorse. There are no comparable rules for police or for the operation of courts, nor for the prosecution and defense function. But, nevertheless, some 20 years ago in 1955, at the first United Nations Congress on prevention of crime and treatment of offenders, the United Nations standard minimum rules were adopted. Shortly thereafter the economic and social council of the United Nations approved the rules, which then made them official doctrine of the United Nations and a very short time ago, just in 1971 and 1973, the general assembly of the United Nations -- its governing body, reaffirmed the rules and recommended them for incorporation in the national codes and legislation of member states.

As the chairman indicated, these rules are quite extensive there are 94 in toto, totally, and traditionally they have been grouped into 30 separate categories. Which is really the framework in which they're discussed. The first part of the rules deals with general principles and then the second part, roughly the second half, concerns itself with special categories which primarily are concerned with prisoners under sentence, but there are shorter groupings for mentally disturbed prisoners and prisoners waiting trial.

Now what do the rules cover? They're quite comprehensive with respect to the incarceration and management of convicted prisoners, detained prisoners and correctional facilities. They don't apply to juveniles, but it is commented on in the rules themselves that they are largely applicable and might well be considered so for youthful prisoners and delinquents.

They cover such matters as medical care, education and recreation, physical conditions of confinement, discipline and punishment, separation of different categories of prisoners, you young and the old, male and female. Prisoner complaints, treatment programs and concepts and prison and institutional personnel. And I shall just give you an example -- a few examples -- of what the thrust is of a few rules and that will be the end of your thumbnail sketch of what the rules are.

The rules, for example, they call for individual cell occupancy, with adequate space and ventilation, that's rule nine. They require clean and proper bedding, clothing and personal hygiene facilities for prisoners. They mandate daily exercise, they require qualified medical and dental services at every institution, they prohibit corporal punishments and, quoting, "cruel, inhuman and degrading punishments." They require notice of the offense and thorough investigation and an opportunity to present the prisoner's contentions in all disciplinary proceedings. They guarantee the right of

prisoners to make complaints without censorship to the central prison administration, judicial authority or other proper authorities. They prohibit discrimination on grounds of race, color, sex, language, religion, or political belief in prisoner management. They recognize the right to religious belief and practice or non-belief. They call for regular inspections of penal institutions and their operations, provision of after care services to help the offender re-integrate back into the community, and they endorse principles which prefer open institutions over secure institutions and call for safeguarding the civil rights and privileges of offenders.

Ah, are these rules being implemented throughout the world today? Well, most nations contend that they are. The United Nations has had occasion to conduct two questionnaire surveys among all of its member states with a reasonably good return. The most recent survey, which is the one which I shall briefly outline, was conducted in 1974 in preparation for the 1975 world congress on United Nations congress on prevention of crime and treatment of offenders.

It asked whether the rules had influenced local legislation, whether in practice they were being carried out on a rule by rule basis and what new developments were in effect in this area. Now most nations reporting, and there were 58 nations, close to 45% of the total United Nations membership, said that they were implementing most of the rules, that is

virtually all nations reported full implementation of 70% of the rules. You must remember, that these were prison administrations and governments responding and that the actual situation of implementation in specific institutions might have been less, in fact, I think it would a fair assessment to say that this would be an optimistic assessment of implementation.

There were, however, some important gaps. Only 50% of the nations reported full implementation of the rules on accommodation and living conditions, the chief problem there seemed to be over crowding. Only 55% reported implementation -- full implementation of the rules on personnel, the problems there were funds and getting adequate, trained personnel to handle the functions, doctors, teachers, appropriately trained guards and custodial officers. And only 46% reported full implementation on the rules for prisoners awaiting trial -- pre-trial detainees. The main problems, I'm going to be brief, were shortages of funds, referred to by our presiding officer, trained personnel and the ever present problem of over crowding which impairs living conditions, programs and facilities, always.

Many countries say that the rules did, specifically, influence the formulation of their penal codes with respect to sentencing and treatment of prisoners. But, quite frankly, this could be explicitly traced in only a few countries. One of them being the country of one of our panel speakers, Israel

and I hope he will address the specific extent which the standard rules have been incorporated in the local penal code.

My final comments to you with what enforcement mechanisms exist for the rules. These are the kind of enforcement mechanisms that lawyers which most of you are, I presume, would readily recognize. There are judicial mechanisms for enforcing prisoner treatment codes. In some nations this is the public prosecutor, he has this responsibility, Hungary, Iran and Turkey, special courts and judges are constituted in many nations to concern themselves with conditions in penal institutions. Some of which include Argentina, Belgium, Germany, Mexico, Portugal, Spain, Yugoslavia and Poland. I am making important omissions, but I hope you will pardon if I miss your country on some of these.

And then our own country -- my own country -- ~~the~~ United States, would be an example of general judicial protection of criminal courts through interpretation of its constitution. We have no special courts or judicial mechanisms for protection of prisoners' rights, as such, but in the interpretation of our Bill of Rights, our first amendment guaranteeing freedom of speech, our eighth amendment prohibiting cruel and inhuman punishment, we have had a tremendously busy period in the federal courts in the past ten years dealing with litigation brought by or on behalf of prisoners. And, as a result, we have produced a rather detailed jurisprudence on the rights

of prisoners with respect to conditions of confinement, freedom of action, freedom of conscience, censorship, ah, ah, grievances, solitary confinement and the like, achieved by interpretation of our constitution.

In many nations of the world non judicial mechanisms exist. Not so much for direct enforcement of the rules, because generally these mechanisms do not have power to override the orders of prison administration or to order the correction of sub-standard or intolerable conditions, but they investigate and make recommendations to appropriate authorities. One such mechanism, I'm sure known to most of you would be the Scandinavian ombudsman, whose concern within Scandinavia covers many governmental regulatory agencies, but which has had significant problems and complaints to deal with, with respect to prisons.

In Japan the civil liberties bureau system -- civil liberties commissioners all over the nation, once again, concerned with governmental intrusion in many areas, are another mechanism for checking on and insuring observance of prisoner treatment codes and supervising or visiting boards exist in many nations which exercise a similar function. Some of these being Australia, Israel, Kenya and Switzerland.

As I indicated, their decisions are not binding on penal administration. These enforcement mechanisms, I might comment, really call for what the United Nations or social

defense research institute has categorized as some four or five elements to be effective. One, the rights of prisoners must be defined, as indeed they are in the United Nations rules. Secondly, legal procedures must be defined and accessible to prisoners. Often legal procedures exist which the prisoners are quite unaware of. Third, independent authorities must carry out and apply these procedures, independent of the prison administration itself. And, finally, the decision should be enforceable, ultimately and probably the most cases through the judicial machinery of the nation.

What is the future of the rules, well we hope the future will be more incorporation in national legislation in penal codes, more dissemination and understanding and knowledge about the rules and hopefully something which our American Bar Association has worked for in the recent United Nations congress, the development of a companion set of rules dealing with offenders who are under community supervision. These do not exist and would be a very desirable code to stand side by side with the prisoner treatment rules, which, as you know, deal with prisons that completes my comments and I look forward to the commentaries of my fellow panelists. Thank you.

MR. JETHMALANI: Thank you Daniel. Before I call upon the next panelists to address you, may I suggest that those of you who are interested in participating in the discussion, might send in their names as early as possible and

they will be called out in the order in which they are received, on this table. Now, may I ask Professor Arnold from New Zealand.

PROF. ARNOLD: Mr. Chairman, Mr. presiding officer, may I tell you first, just a little about my own background. I am a New Zealander, I spent some time in the United States in New York, doing graduate work in the correctional field and I'm currently teaching in the University of Windsor, in Canada. My background is, obviously, an anglo-American one and, therefore, much of what I say reflects the bias of one who has gone through that type of training. Some of what I say, may well be inappropriate in countries with which I'm not familiar.

I must agree with the -- many of the comments made by Mr. Skoler in the working paper, I think it's a very useful statement of principles in this particular area and the discussion of the issues. I simply want to comment briefly on three things. Firstly, despite the admonition of the presiding officer, I would like to make a few comments about the substance of the rules because I believe, in some ways these rules (unintelligible). Secondly, I would like to make a few comments, further comments about problems relating to implementation of the rules and finally, some comments about the difficulties of assessing and what the degree of implementation has, in fact, been.

Now as to the first matter, the content of the rules. I think there is some need for revision of these rules and I think, really, in a discussion of implementation, that we need to acknowledge that fact. There are, I think, two factors giving rise to this need for revision of the rules. One, is that in many ways, the rules are very imprecise. There are no doubt many reasons for this, I suppose one of the prices of getting any agreement at all at an international level is a degree of generality as opposed to specific guidelines.

However, I think despite that need to be reasonably general to achieve some sort of consensus, I think some of the rules go rather further than perhaps they ought. For example, one of the rules talks about equitable remuneration for prisoners. Now equitable remuneration, really means nothing. And could not there be some agreement as to what we're talking about when we're talking about equitable remuneration. Are we talking about remuneration at a level which exists in the outside community or are we talking about something else.

Again, rule 20 provides that every prisoner shall be provided by the administration at the usual hours, with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. Now a rule like that has very little meaning, surely. Couldn't we, perhaps, establish some precise criteria in terms of calories, nutritional content, or something that would provide a real guideline

for somebody who runs a penal institution. Rather than this rather general statement which perhaps lacks any real meaning.

The second reason that I think perhaps some revision of these rules is necessary, is that they are now some 20 years old and when -- while they no doubt represented the best of criminological thinking when they were initially formulated and accepted and adopted, I think there has been some growth and ideas about corrections in that intervening period. And, I think the rules themselves acknowledge that ideas will change. Perhaps the ideas have changed to such an extent, now, that some basic revision is needed.

Together with a change in ideas there has been, I think, an emergence of new concerns, things that concern correctional people now, perhaps were of no concern at the time when the rules were formulated. Now there are many possibilities for revision and addition to the rules. I don't wish to go into them all at all. I think in the working paper Mr. Skoler discusses some of them in connection with this discussion of the European rules. However, I want, if I may, just to mention briefly four areas where I think perhaps we ought to look or consider the question of revision.

Firstly, I think the rules might well contain some specific statement that imprisonment has a sanction of last resort. That it should not be used unless there is no less drastic alternative. I think if there's one thing that we've

learned, or the criminologists can tell us, and it is that imprisonment as a means of dealing with criminal behavior is expensive, it has not been shown to be an effective means of bringing about long term changes in behavior and for the individual, the inmate, a tremendously dehumanizing and repressive experience. And that is true, despite, no matter how good the physical structure of a prison is.

Now there are many very pleasant prisons, but they're prisons, nevertheless. Bearing that in mind, couldn't we have some statement in the rules that by and large imprisonment is not a sanction to be lightly used.

Secondly, the rules adhere to a notion which I believe has been under some challenge. Recently, that is the rehabilitative ideal. If you look at rule 63, 65 and 69, you see a tremendous concern with classification, with treatment, with individualized courses of treatment for offenders. Now I believe that we can, somehow, diagnose what is wrong with people, that we can treat them and cure them, I think that notion is a very dangerous one. And, moreover, it is somewhat hypocritical and it can be very oppressive. I think it is dangerous, because it may lead us to use imprisonment more frequently than we ought to, simply because we think we are treating someone.

And it may further blind us to the realities of imprisonment. Secondly, I think this notion is rather hypocriti-

cal because I think, in fact, we know nothing about how to treat people. We simply do not know what makes people tick. There are many, many theories, many ideas but none of them, I'm sorry, can be shown to be right or better than any of the others.

Thirdly, I think the notion is rather repressive, because what if the inmate simply does not want to be treated what if he simply wants to serve out a period of time, that is the sentence, free from interference from anybody. Now what are the consequences of abandoning this notion of treatment and rehabilitation? It is not, I think, a return to inhuman and oppressive notions at all. I think we should, in fact, offer programs within a correctional facility, but that those programs should be voluntary, should not be forced upon anybody.

We should, I think, and I think the rules ought to do this, simply acknowledge that the prime purpose of sending anyone to prisonment is either to punish them or to express some sort of social disfavor with the behavior the person has been involved with, or simply as a means of incapacitating the person for a period of time. Whichever of the purposes we choose, I don't mind, but I think we ought to really abandon as I say, this notion that we are somehow sending them there to treat them.

The third area, or -- of which I think the rules might usefully be changed is that they should express some

explicit concern with what happens to an inmate after he or she leaves a correctional institution. Now the rules do deal with this, they do call for after care, for a gradual transition into the community after release from an institution. But, nevertheless, questions such as the loss of civil rights on the part of an inmate, the expungement of a criminal record after a period of time, these and other questions I think might usefully be dealt with in the rules.

Finally, there are a number of rather less important matters which might well be included and I think for example in America, quite important thing is some sort of prohibition on medical experimentation with prisoners, which is quite extensive within some prison systems. And I think the rules with respect to sort of co-educational facilities, the mingling of prisoners of different sexes, perhaps that also requires some reformulation today.

Well, may I leave the question of the substance of the rules and go on to the question of implementation. I just want to make a couple of very brief points really by way of addition to what has been said. I think, so far as implementation goes, the picture presented in the working paper by Mr. Skoler is not really a happy one. And there seems to be a number of problems which it's very difficult for us as lawyers to deal with. Some already have been mentioned, that is the economic problems that most countries face with respect to

correctional facilities. Now these problems exist not only of course within poorer countries, but also within more wealthy countries. We have a competition for the resources of the state, I think it's quite likely that corrections is going to come out as a very low priority and when you have a period of fiscal restraint and hardship as most countries seem to be experiencing at the moment. It's inevitable, I think, that one of the first areas to feel the pinch, I think, will be corrections. Now of course, also a number of political problems, which stand in the way of implementation of these rules.

Members of the public are often not very happy with the type of treatment which we attempt to give out to inmates. Any amelioration of prison conditions is frequently followed by an outcry about coddling prisoners, and so on. The attitude of the public creates, I think, a tremendous impediment in the way of correctional reform. And, again, also there is the question of institutional inertia. And it is very difficult to get an institutional system to -- pointed towards, change meaningful change.

A second problem which I'd like to mention is the problem of correctional personnel. While correctional personnel at the top of the hierarchy frequently seem to accept the aims and ideas of sets of rules such as the UN rules, those who -- whose day to day activity involves the running of prisons, the guards, the others who have intimate contact with

offenders, those people are frequently not convinced of the utility of rules such as these. They are concerned with matters such as security, preserving order. Against this type of attitude, it's very difficult to operate. Many guards and others seem to see the type of rights which are discussed in these rules, not as rights but as privileges. They seem to regard things such as sending letters to your relatives as a privilege to be earned. And if there is inappropriate behavior on the part of the inmate that privilege can be withdrawn.

Now if the concern is to get meaningful implementation of these rules at a practical level, I suggest that overcoming many of the prejudices and biases of at (unintelligible) correctional facilities presents a very real problem.

The final question that I'd like to mention with respect to implementation is the problem of enforcement or convincing people that these rules should be introduced. Now the rules do contain provisions calling for the inspection of institutions, they do provide for inmates to present complaints to the central prison administration. However, apart from that they deal very little with the question of how an inmate is to enforce his rights or with the much more difficult and broader question of how the UN as a body is going to convince countries who are not happy with these rules to accept them. Or who do not follow the rules, to accept them.

There are essentially two problems. You have to pro-

vide procedures by which individual inmates within the system can attempt to enforce their rights. We have to provide some broader means of convincing, as I say, individual countries who do not adhere to the spirit of these rules, that they ought to adhere to the spirit of them. With regard -- the question of enforcing individual rights is much easier than the latter question and can perhaps be done by various means of external review. I think it's important that the review be external but whether it's before a court or an ombudsman or whatever, probably doesn't matter as long as there is some form of external review.

With regard to the broader recognition -- the need to convince at a broad level, countries who do not accept these rules, that they ought to I have no idea what you might do to do that. There is perhaps one final thing that arises in the area of enforcement and that is the rules are so general at points, that it's very difficult to say whether they have in fact, been applied or not. Where a rule says, for example, that discipline should not be enforced beyond what is needed for the well-being of the institution, I really don't know what that means. I don't know how you can say that that rule is applied or not applied in any given country, because notions of what the well-being of the institution requires vary so greatly, so that the generality of many rules means that we really cannot tell whether they're applied or not.

Well, the final few comments that I wish to make simply deal with the problems of assessing the degree of implementation. There have been, I think, a number of sets of rules promulgated since perhaps the turn of the century. And, America, I think, affords a good example of the tremendous proliferation of standards, guidelines for correctional personnel for others involved in the criminal justice system. However, there's very rarely been any effort to bring about the implementation of these rules or what to examine the question of whether they have had any impact at all.

I think the -- there's perhaps the UN is to be congratulated having formulated the standards it did not cease at the point, but has efforts to discover whether its rules have been applied. Now, obviously in trying to assess the question of implementation it is a good idea as a first step to look at the state of the law at a particular country. But that may or may not tell us anything. The law may reflect the rules but the practice may not.

Alternatively, there -- maybe these rules may not be embodied in laws or regulations, but nevertheless, they may be followed in the practice of a particular correctional system. For example, in Canada a study in 1972 concluded that Canadian legislation and regulations simply do not provide for the great majority of the rights talked about in these minimum rules. However, the conclusion was, of the researcher was

that by and large the system in its day to day operation, did reflect the rights or did treat prisoners in accordance with the sort of principles contained in these rules. However, as correctional officials tended to regard these principles not as rights but as privileges certainly weapons to use against the inmate if necessary. So we can look at the law as a first step, but it's far more meaningful to try and assess what the day to day operation of any criminal justice is. Essentially, we have no means to do that.

I think we cannot rely on the self reports of governmental organizations. Simply does not provide us with an accurate picture. If, therefore, we want seriously to find out what impact these rules have had, we must, I think, go about the process of assessment in a much more serious fashion and that necessitates, I think, some examination at a practical level by one body. One body going to a number of countries and seeing what goes on rather than simply asking the country to report.

And that may be, I suppose, impolitic. In conclusion I'd like simply to say that these rules, to my mind anyway, are a helpful statement of world opinion. I think they have had some impact at that level. But I think we should not be over optimistic that they have brought about any notable changes in the way inmates are treated in correctional facilities. If we do want to bring about meaningful change, I think we will

have to undertake a much more thorough going and serious effort. Thank you.

MR. JETHMALANI: Thank you, Professor Arnold. May I now ask Mr. James Wilson, the U.S. state department to -- ladies and gentlemen, those of you would like to ask questions from any of the panelists without taking the floor, might write out the questions and pass them on so that they can be addressed to the relevant panelist. Mr. James Wilson.

MR. WILSON: Thank you, Mr. chairman. I, too, should take a moment to examine or to explain the question of credentials. In terms of academic background I might say that I'm a graduate of the Fletcher School of Law and Diplomacy in Harvard Law School and a member of the Bar. At the same time I am a career diplomat serving in a foreign service. My present position is as coordinator for humanitarian affairs in the department of state, it's a new position. One of whose responsibilities is the whole area of human rights and their implementation as part of the foreign policy process. I have just returned from serving as head of the United States delegation at the meeting of the executive committee of the United Nations high commissioner for refugees program executive committee, one of the things which always, I think, strikes you most as you look into the refugee business which is another of my new responsibilities, is the fact that so many of them have either had terms of imprisonment or have become refugees

because they fear imprisonment. And this gives us, I think, a very keen insight of some of the very real problems of implementation of the rules of punishment.

I would like to confine myself, today, to just a few very brief remarks, indeed, I did not discover until yesterday afternoon when I got back that I was to be a member of this panel. But, I have had an opportunity to look over the working paper and I must congratulate the author on both his erudition and if you will pardon the phrase, his scholarship.

The summary, I think, is an excellent one and puts fairly before this group a number of issues on -- one of which I would like to concentrate, if I may. And this is really the question of why it is that we have apparently done so little in the way of implementation. Mr. Skoler has said that we should have taken action long ago, it's been 20 years that these rules have been on the boards. I can certainly agree with his main thesis and support the need of implementation of these rules. I think we've also got to recognize, however, that ours is, in spite of the best efforts of many of us to build a most imperfect world. I think I must also agree with Mr. Arnold that some revision after 20 years may very well be called for in these rules, but essentially, it seems to me that we must recognize, without in any way trying to downgrade the ideal which has been set up here that we should also be giving consideration to what may be done in lesser terms in

series of -- in a series of practical steps. Mr. Skoler decries the fact that the general assembly of the United Nations in its most recent action failed really to adopt the standard rules. I think it's fair to say, however, that their action did constitute a rather ringing endorsement of the rules and for this we can be of -- very thankful. These rules have, after all, survived even though perhaps imperfectly the test of time for some 20 years, and in spite of the fact that they have not been universally adopted by each country, they have certainly served as a model for codes in many countries around the world.

I would like to draw, in a way, a parallel between the fact that these rules have been endorsed by the general assembly with the situation respect to the universal declaration of human rights which, as you know, was passed by resolution of the general assembly way back in 1948 with most of the Soviet bloc, however, abstaining at that time. There was perhaps considerable question at the time that the universal declaration was passed as to whether it had much of any status in international law. With the passage of time, however, I think that the consensus of legal opinion around the world is that the declaration does stand as a basic part of the rules not only of international law, but of domestic law. And much the same sort of thing can, in many ways, I think, be said for the idea of the standard rules of -- on punishment, even though

they may not have been adapted verbatim, or adopted verbatim by individual governments, they certainly stand as a model for what governments can do and certainly are not to be ignored either in international law or domestic law.

I think, at the same time that I have got to temper this by saying that the adoption by states of the standard rules, as part of their domestic code, either directly or indirectly, it is not necessarily, in my opinion, the full answer to our problem. The second speaker here touched on this point and I wish to underline it. I have noticed in looking through the list of countries who responded to the 1974 questionnaire that several states who claim to have adopted in whole or in part the standard rules as part of their domestic legislation, have really got some of the worst records as far as human rights are concerned as any of the responders. In short I think that what we have got to do is to look behind the surface of the individual codes and to see what actually happens in fact in the implementation of these rules.

Where the rules are adopted on paper only, it may in some cases, I think, serve to lull us into a sense of complacency. Where we are looking for is actual improvement in the standards of performance. I don't mean to decry this entirely I think the fact that nations do have these rules or parts of these rules as part of their national codes is something that can be applauded in many respects; at least it serves as an

ideal, but by the same token, I agree we must look behind those codes in terms of the actual application.

This leads me to my third observation and that is that perhaps we are expecting too much when we think that we -- that countries will take over the entire body of these rules perhaps we should be in practical terms, content with a less comprehensive approach perhaps we should be concentrating on the possibility of a piece by piece implementation of these rules, rather than to wait, as it were, for Minerva to spring fully armed from the brain of Zeus.

Let me cite as an example of this what I consider to be a very encouraging development in the international field, which is the work of the recently concluded fifth congress, which has been alluded to here many times. That congress, as you probably know, devoted a considerable amount of its time, indeed most of its time to a discussion in depth and an examination in depth of the principles underlying one of the basic rules, which is the rule against cruel and inhuman and degrading punishment. And, concentrated its efforts on the question of torture. The congress in turn passed a declaration which was adopted by consensus condemning torture and recommending that the general assembly also adopt this declaration. The secretary general of the United Nations in turn has addressed himself in his way to the general assembly on this question where he describes the process which is been followed

notes however a number of reservations that were voiced in the fifth congress by various delegations. Some of these were mere verbal alterations, but others, such as the question of whether the prohibitions of the delegations should apply to all persons, or only to public officials, may materially effect the sense of that document.

The United States and the majority of the congress has supported this declaration and it is now before the general assembly for its action during the current 30th session in New York. For our part, the United States, on looking at it in addition to supporting the declaration, however, felt that we needed something more here and it was for this reason that Secretary Kissinger took the initiative in his opening remarks to the United Nations general assembly of two weeks ago to suggest a further program for action in this field and, specifically, took the initiative in suggesting the formation of a study group of experts who would be appointed by the secretary general of the United Nations and study the nature and extent of torture in the world today and report back to the general assembly.

Here then is an example of the sort of thing where you can concentrate on one phase of the rules and hopefully bring about a much clearer delineation of the problems, much clearer focus on violations a much clearer concentration on what has to be done in specific terms. This is also the sort

of thing which can rally to it a -- the support of all shapes and varieties of nations and people. Indeed, during my stay in Geneva, recently, I had the privilege of discussing this with a gentleman whom I think many of you may know, the secretary general of the international commission of jurists, Mr. Neil McDermott, who is very much interested in the action by the fifth congress and very much concerned to see if we can put some teeth into the suggestion made by Secretary Kissinger.

I look forward, as a matter of fact, in the next several days, in talking with other non-governmental organizations about exactly this and this is, again, an area, where groups such as the bar associations represented here can have a very effective voice. What I am saying is that this is the type of thing where if we can get behind it and support it, we can hopefully begin to make some practical progress in an area where practical progress is very much needed.

Having said all of this I do not in any way want to try to denigrate the ideal which has been established, over the last 20 years and the need for a consistent series of rules and regulations covering this important point and I will say this that I do feel optimistic that if we do not expect too much to happen too soon, we can make slow but steady progress in the implementation of these rules. Thank you Mr. chairman.

MR. JETHMALANI: Thank you Mr. Wilson. Our next panelist is going to be Mr. Clas Amilon of the United Nations.

Pardon me if I mispronounced your name. In the meantime, Judge Henry has asked a question from me. Yes, the answer is that the decision of the Bombay high court is in full operation. The court has granted a special leave to appeal to the supreme court, the supreme court has refused a stay of operation of the judgment, which is of course (unintelligible) but it is in force. Mr. --

MR. AMILON: Thank you. Mr. chairman, ladies and gentlemen, as the chairman mentioned, I am representing here the United Nations in which organization I am working for a couple of years and I am working in that particular unit within United Nations which is dealing with crime prevention and criminal justice and particularly with the standard minimum rules.

Apart from that I am from Sweden, I have been working in the Swedish correctional system in various positions for 15 years and I am still with the Swedish correctional administration while not working in United Nations. I have been working as prison director, as regional director and most recently as chief for one of two departments in the central correctional administration. That department dealing with treatment of prisoners in institutions and treatment of offenders in communities, as well as security questions besides in institutions.

Ah, Mr. chairman, as the last speaker here I am faced with the problem to avoid as much as possible, overlapping. I am sure I can avoid it to a 100% but I will certainly try to

do my best. Let me just say that I'm not in my introductory remarks going to argue with the other speakers, here, with whom I cannot always agree to 100%, but I hope to get an opportunity to do so later on.

We have talked about the standard minimum rules and the 20 years they have existed. Let me, however, very briefly to a little bit more back in the history. There is, as a matter of fact, nearly half a century of history behind the standard minimum rules as they stand today. Also humanitarian concern for prisoners has a much longer history and goes back 200 more years or longer.

The first record of a concrete proposal to an international body to consider minimum rights for all deprived (unintelligible) by judicial system is the one offered to the meeting of the international penal and penitentiary commission at Bern, in 1926. This proposal was made by a prisoner administrator, and that is important to remember. And supported by others with the responsibility for penitentiaries. And the IPPC, the International Penal and Penitentiary Commission, decided to proceed along these suggested lines.

A set of 55 rules was presented to the next congress four years later. After further studies a first international draft was endorsed in 1934 by the League of Nations. The first IPPC meeting of the second World War was asked to consider a revision of the rules to bring them up to date. Particularly

in the light of the happenings during the second World War in the concentration camps and in the prisons in the Nazi dominated Europe.

Several years work followed and culminated in 1955 when the first United Nations congress on the prevention of crime and the treatment of offenders adopted the new set of rules now consisting of 94 rules. Since then, 20 more years have passed. A period of extensive development in the field of corrections and with new and sometimes conflicting expectations of what prisons and correctional institutions can or should do.

In the light of this development it seems natural to ask if the rules still serve or can serve the purpose they were intended to do. If it is not time for thorough revisions of the rules and, perhaps, even in a time of rapid change technically and ideologically if there is a place for international world wide standards of this kind. Before answering those questions, let's briefly consider the intention behind the rules, their present extent of implementation and to what extent they are flexible enough to meet new demands.

When the rules originally were drafted in 1926, the intention was two-fold. To create decent living conditions for those deprived of their liberty and to protect the fundamental rights, human and legal, of prisoners from arbitrary treatment. Despite the assertions to the contrary, in the

proposals and by those who drafted the first standard rules, it was found that methods of treatment could not easily be disregarded in the further drafting. And, consequently, the rules, as they now stand, give a description of methods of treatment. A description which gradually assumed increasing importance. However, treatment matters are changing rapidly. And, during the 20 years which have elapsed since the rules were adopted by the 1955 Geneva congress, many ideas have changed.

But, here, it's necessary to remind of the fact that one of the introductory rules explicitly mentions that the rules are, and now I'm quoting, "not intent to preclude experiment and practices provided these are in harmony with the principles and seek further the purposes which derive from the text of the rules as a whole." This statement is of a paramount importance. It is the spirit of the rules, not the letter which should guide prison reforms of today.

And now the intention with the standard minimum rules which has become more and more important during the last decades is to give guidance to the new and developing countries which after self dependence have to develop their correctional system in accordance with their own cultural and social background and independently from the colonial inheritance.

A few words about the application of the standard minimum rules today. Mr. Skoler mentioned and some of the

other speakers did so too about the last inquiry made by the secretary general, last year. As 62 member states, by then it was 135 replied to the questionnaire including the United States, the reply of which covered the situation in 55 -- 31 jurisdictions on federal and sub-federal levels. Most of the countries indicated that the rules were implemented to a very large extent, as Mr. Skoler mentioned. This seems to be an encouraging result, but nevertheless, I am convinced that none of them who took an active part in drafting of the rules, among them Americans like professor Forsen Saline and James Bennett, who is here with us today, at that time director of the U.S. federal bureau of prisons, would declare himself satisfied with the situation of today.

Nor, would we find anyone else satisfied among the many others who worked for and believed that the standard minimum rules would lessen the sufferings in prisons all over the world. Certainly the inquiry shows that they have -- and the rules have exerted a significant influence in many countries. But, nevertheless, it's quite clear that they have not been implemented and observed as it was hoped they would be. Thus the inquiry reveals that some of the, perhaps, most important rules are among those least effectively implemented.

For example, only half of the responding countries have been able to achieve the guidelines in rules nine to 14, dealing with accommodations and fundamentals for securing de-

cent living conditions for prisoners. Furthermore, it is very unsatisfactory that only about 60% of the replying countries claim to observe the rules dealing with discipline and punishment, which are a basic nature in terms of protection of the fundamental rights of prisoners against arbitrary treatment.

Finally, when judging the reliability and validity of the results obtained, it might be argued that only countries with a relatively good implementation record felt inclined to reply. Moreover there is the question whether the replies reflect actual practice or, perhaps, the opinions and wishes of the respondents.

What are, then, the main reasons behind the present situation? Briefly, the obstacles to a better implementation could be divided into the following four categories. Legislative deficiencies, lack of adequate finances, shortage of accommodations, and personnel inadequacies. In some parts of the world, legal impediments are to be found in the slowness and complexity of legal procedures, particularly during the pre-trial stage. For example, some of the Latin American countries reported that as much as 80% of the prison population were awaiting trial. In some countries other obstacles arise from the absence of legal authorization for prisoners to work outside institutions, to be granted temporary home leave, to receive increased remuneration for prison labor or to obtain parole or probation.

Even if it is true that the implementation of certain rules, such as those relating to discipline and punishment, does not require any additional resources. Effective implementation of most of the rules is dependent on more adequate financial support. Even if the overcrowding in the institutions which is a problem in many countries, can be overcome by more frequent use of non-institutional measures, there will be still be a need to replace those institutions with modern facilities, all types, closed, semi-open as well as half-way houses and hostels.

Corresponding to the need for more than correctional programs that are able to guarantee the enforcement of safeguards for the basic human rights of those deprived of their liberty. In many countries the sufficient institutional personnel is simply not available. Often, because of shortage of funds needed to establish new posts. But sometimes because the low pay doesn't attract suitable job applicants. This is true as far as specialists, such as psychiatrists, psychologists, and social workers are concerned. And, perhaps, more so with respect to prison staff of lower ranks in the reporting countries.

What can be done to make the situation, better? What kinds of means of remedies are available? Well, first and foremost, let me say, that it's quite clear that the rules are not sufficiently well known in the world and not sufficiently respected and lived up to where there are no knowledge about

the rules, must be disseminated and countries must be persuaded to implement them and, if need be, assisted in doing so.

One method suggested by the working group on the standard minimum rules, which last time met in Ohio, last year, would be to edit a short, easily understood brochure about the rules. Other methods would consist of international inter-regional, regional and national meetings as well as technical assistance.

Another instrument for the more effective dissemination might be to publish a commentary on the rules which, too, could serve as an interpretation of the rules in the light of the recent development and thus contribute to that flexibility to changing conditions. And let me just say here that I think that the commentary would be a more effective way to deal with the rules and to bring them up to the present situation than revision of the rules by various reasons to which I will be back later on.

Furthermore, as they now stand, the standard minimum rules themselves merely contain standards and do not provide for the implementations of those standards. Therefore, a set of implementing procedures, adopted by the United Nations and appended to the rules could, perhaps be a useful instrument for the more effective application of these standards.

Finally, and perhaps most important, the standard minimum rules could easily be used as teaching materials at

educational institutions concerned with law, criminology and corrections. And, of course, in all national training courses for correctional personnel at all levels.

Finally, a few words, Mr. Chairman. 20 years have elapsed since the rules were adopted by the first Geneva congress. 20 years of social change throughout the world and 20 years of development in correctional planning and policy. (unintelligible) the effective protection of the human rights of prisoners have been and will continue to be reinforced. The discussion of the utility of prisoners -- prisons -- will go on and the trend towards a more extensive use of alternatives to imprisonment is likely to persist. The efforts to reduce the role of prisons as the central instrument of penal policy and the development of sanctions that provide substitutes for imprisonment calls for new rules as suggested already here by my friend to the right.

For the new rules which would establish standards for treatment of offenders in the community. However, the community based treatment forms cannot, at least not for a near future, solve all problems and the society has the responsibility for those offenders who must be taken care of otherwise. The endeavor to cure criminality might remain to be discouraging. But, at least, we must be able to demonstrate that also the most dangerous prisoners can be treated decently and humanely.

For this reason we'll still need the standard

minimum rules aimed at humanizing the treatment of prisoners in all countries of the world, but we have, too, to remember that the standard minimum rules represent nothing but minimum standards and that our endeavors, particularly in the rich and developed countries, must be to reach far beyond these standards. Thank you.

MR. JETHMALANI: Thank you, Mr. Amilon. We have now the last distinguished panelist, Mr. Yeshaya Prives, from Israel.

MR. PRIVES: Mr. chairman, ladies and gentlemen, I am a practicing lawyer in Tel Aviv, Israel, I am an associate professor, teaching among other subjects, social work legislation. Not only social legislation, but social work legislation for many years in the University of Balalon at Netgon, Israel. In addition, I am a qualified social worker, I was the head of the family care department of the City of Tel Aviv, for many years. I was also the member of a governmental committees that supervised ah, prisons for juveniles in Israel.

Now first I want to compliment Mr. Skoler on the excellent, clear and comprehensive paper he had prepared for this meeting. Considering the advance made in 20 years in the acceptance and implementation of the United Nation's standard minimum rules for treatment of prisoners, it seems to me, now, that a decision must be made now between two courses of action. Shall we devote ourselves to amending or to the -- to revising the rules to bring them up to date, in view of changes in cor-

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rectional (unintelligible) and in view of the new ideas in the fields of social work, psychology, psychiatry, penology, or shall we, on the other hand, put our minds and efforts to the task of achieving a better implementation of the present minimum rules. Now, some of my colleagues, here, had some comments on the shortcomings of the present rules, or some of the rules I cannot agree more. The question is, is this really what we need now.

We had a report from Mr. Skoler, what is present situation of implementation of the rules, almost all over the world. We don't have answers to the questionnaire from all the countries, but from what we have had, less than 50% of the countries that had answered did not implement, fully, the minimum standard rules. Not talking about more than the minimum.

If I may quote two sentences from Mr. Skoler's paper, he says, quote, "indeed, it is discouraging to note the intensity of continuing struggle for adherence to even the most basic principles of humane custody and treatment," and think these words were chosen by Mr. Skoler, very carefully, but they are very strong, in my opinion. Then, again, he says, quote, "even more disturbing have been other indications of the continued vitality of cruel, inhuman treatment in the detention institutions." Well, ladies and gentlemen, all these really does not offer cause for optimism. And, I would say,

it offers cause for pessimism. I come from a country that had applied the minimum rules into its prisons' regulations, we have a new prisons' ordinance that was rewritten in 1971. Mr. Skoler had mentioned our questionnaire. We had applied the minimum standard rules, not all of them word by word, but what I believe is much more meaningful is that the substance in the meaning, in the spirit. So I feel good when I stand here in front of you and I look at the questionnaire that was presented by the State of Israel to the United Nations regarding every group of rules, if we talk about accommodation, we say we have the same rules, if we talk about personal hygiene, we say we have the same rules. If we talk about clothing and bedding, as same as ours. Food, same as ours. We have supervising committees, we have doctors in every hospital.

We talk about exercise and sports, it's written clearly in our regulations. We talk about medical service, discipline and punishment, etc., etc. And I wouldn't go into details as I say, it makes me feel good. But we are here as an international group of lawyers, we did not come to discuss the achievements or shortcomings of each individual country, each individual state. We for ourself, I may say only one or two words, we have an old tradition, starting in the bible that says, God created in his own image, and our old and wise scholars have translated the command, thou shalt love your friend like yourselves, into what you would not, or what you

would hate if done to you. Do not do to the other. Which is a very practical way of translating a philosophical maxim. But, as we know, the implementation of this maxim of the bible is as difficult as the implementation of the minimum rules of the United Nations.

We have reports, we know for a fact, that now in 1975, as we have said, now after 20 years since the minimum rules were accepted by the United Nations and decided upon, and after much more than 20 years, like my colleagues that spoke before me have just said, for hundreds of years of practicing human rights, this way and the other way, still some governments, some countries, some nations, some of them belong to the biggest ones, do not adhere to the minimum rules. We have information just yesterday I met a man that had spent five years in prison that was sentenced to a 100 days of solitary confinement in a cell without the right to go out, not even for one hour a day. Just because he wanted to keep his religious regulations or beliefs to eat the food that he is allowed to eat and not other food. That had the right to communicate with the family in writing only once in six months. And was denied even this right. That was not given any right of appeal to any decision made against him. Or the right to complain.

All these are standard minimum rules, ladies and gentlemen. They all appear. I'm giving you just highlights, just a few of them. So, --

(end of proceedings)

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P R O C E E D I N G S

MR. : -- try to implement the present minimum rules, and we all agree they are minimal, but for some people -- I would say for some prisoners -- they are not minimum. They may be the maximum.

And we are talking about human beings. We are talking about prisoners, not only about ideas. These are ideas applied to people, and we'll have to keep this in mind, as I'm sure we all do.

The -- when I heard my colleagues here I reminded myself that we are not sitting now in the United Nations. This is a professional conference on law and the world, and we're entitled to recommend, to call upon governments, states, and nations to implement the minimum rules, even to those countries and nations that did implement the rules, mostly or partially. We may also, ladies and gentlemen, we may also recommend more than just calling upon governments to implement. The idea to make this minimum standard rules a treaty or a convention was raised a few times in all kinds of meetings, in the United Nations, out of the United Nations, certain conventions, conferences, congresses.

Till now it was not accepted, and the minimum standard rules are not presented to the world as an international convention which, when adopted, will be obligatory on subscribing nations, and not as they are now just guidelines.

We have tried, as we all know, for twenty years that these minimum standard rules shall be accepted, believing in influencing, persevering, talking, having meetings, discussing, all this is very important. I definitely agree. It did achieve part of our goal, part of the purpose. We cannot say there was no advance. But in my opinion, not enough of an advance.

As we all know so well, international law has no way of forcing itself on any nation. The independency of nations, of governments, of countries, is based on their own goodwill in accepting any law, any treaty, any convention, but if we do agree here on such a recommendation that these minimum standard rules shall be presented to the countries as a treaty, at least I believe we shall put every government before the dilemma, put them face to face with the dilemma of accepting or rejecting the treaty.

Now, in fact, as also one of my colleagues has remarked, from the questionnaires it's not so easy to know exactly what is going on in every country, because, as far as accepting the minimum standard rules in principle I believe that many more than the fifty percent have answered that they do accept.

Now this is very good for us, if I talk about us here as a group that wants to implement the minimum standards rules, that believes in the human rights of prisoners, because

any government that has declared -- had declared accepting the minimum standard rules in principles, maybe I would say in an uneasy situation not to accept the minimum standard rules if presented at the convention as a treaty.

We don't have any government now, I believe, around the world, or almost not any government, that will stand up and say we do not want to accept the minimum standard rules. If certain amendments may be needed to help accepting these rules as a treaty this I think is a very practical reason, a very good reason, to sit down and to make some changes and amendments.

I know there are shortcomings in personnel. I know that it's very hard to implement the rule of having private room or cell for every prisoner. I know there is a question of budget, of money, but this I believe could be solved if governments will come to sit at the round table, not by the table, and say we are willing to accept the minimum standard rules, but this and this and this may be not obligatory. WE want the right to have certain changes in the rules.

But then I think some action may be achieved in the near future, and so that in my opinion we shouldn't have to meet in another twenty years -- and I wish all of us to be here, or anywhere else, in twenty years from now -- and in a way just talk to each other why we didn't achieve after forty years the minimum standard rules.

Thank you.

(Applause.)

MR. : Ladies and gentlemen, we have now done with the panelists and it is time to open the floor to you. But before I do that we have with us a draft resolution, rather hurriedly drafted just now. None has been produced so far, and none was produced in advance anyway. So with the permission of the distinguished chairman I'm reading it out to you, because it's difficult to now get it _____ typed and printed and circulated to you. It's a very innocuous resolution which I think reflects the general consensus of all the panelists here and perhaps you too.

But after I read it to you these resolutions will be open to frank and full debate. It is open to change, mutilation, rejection, if you please, and take it that we will not consider it a vote of no confidence. The resolution is:

Resolved, that it is the concern of judges and lawyers engaged in criminal procedures resulting in imprisonment to insure that the conditions of such imprisonment do not fall below the standard minimum rules recommended by the United Nations. And

Resolved further that it is the duty of every lawyer and judge to use his social and other influence to persuade his national government speedily to enforce these standard minimum rules as a part of the national law.

MR. : Second the motion.

MR. : Thank you. Thank you, Judge Henry.

Now while the distinguished speakers take the floor they will bear the resolution in mind. Now, the first speaker whom I would invite to take the floor is Honorable Judge DeSilva of the High Court of Sri Lanka. I'm inviting him first not because he's a friendly neighbor, but because he sent in his card first.

Judge, you might take the floor.

JUDGE DESILVA: Thank you, Mr. Chairman. I don't intend taking much time, because I see that there are many speakers willing to take the floor. I must first of all thank Mr. Emilon, who in a very full and lucid statement gave an account of the implementation by various nations and the views and how they should be — rules should be implemented.

As Mr. Wilson quite rightly said, there is no particular virtue in a formal adoption of the standard minimum rules unless they are effectively implemented. Mr. Chairman, coming as I do from a country which is termed as a most seriously affected nation, and a developing nation which is in need of assistance and resources, we ourselves have adopted these rules and they are being implemented to the extent that this country can afford to.

I have introducing myself at this state. I have been a practicing attorney, both private bar and for the

state till I became a commissioner of prisons in my country six years ago and after four years function in the capacity I was appointed a high court judge of the high court of my country, and I have still to do something with the prisoners, at least on the question of sentencing them when they come before courts.

I'm only making my observations which are again as a result of my experience while working as an attorney, for the state, as commissioner of prisoners, and as judge. I do not want to take much time, but briefly I must say that when I became commissioner of prisoners in my country I was told by the prison wardens and other superintendents that prisons are overcrowded by 250 percent, on top of which we had another problem in our country a few months later, due to some social disturbance, some quite a number of young men had to be taken into custody, and that added to the overcrowding, which I may say amounted to almost 400 percent.

There was no way of solving the problem of overcrowding. Their lack of resources, lack of buildings, and such other problems in the government was not in a position to give enough financial assistance, because there were other private areas. So I suggested, and the suggestion was accepted by the government and it was -- is being -- it's being implemented now to extend the open prison system more effectively, and I may say quite happily, although we had the fear -- that is the

public had the fear that the prisoners were taken into custody or convicted for committing offenses against society, may escape to do the same thing, they are not done except perhaps, I may say, even less than one percent.

So it has succeeded in my own country, and today at present about one-third of the prisoners in our prison population live in more open conditions of minimum security prisons. And we also have the other system which was also introduced a few years ago, what is termed in other country a parole system we call the license system, where prisoners who are reported to be of good behavior, who are not likely to commit other offenses, are released on license and they are supervised by prison staff and voluntary workers.

And not even one percent of the prisoners who are released on license who have served for long terms without serious reports against them have ever come back or committed any crime. So we have solved the problem of overcrowding by those methods.

In recent times, as Mr. Bailon said, one of the ways in which standard minimum rules could be implemented is by a legislative process, so after several years, I may say after fifty years our court structure has been completely overhauled and by the new administration of justice law which came into operation two years ago, and as a result of that we have been able to dispose of trials of people waiting for

murder charges to be tried, within a matter of weeks or months, and that has also led to solving of the overcrowding problem.

Further, the introduction of suspended terms of imprisonment and community service as a way -- as one of the punishments that can be meted out in appropriate cases had to considerable extent solved the problem of overcrowding, and may be applicable to other countries of the type which the distinguished presiding officer referred to, like India where conditions -- like in my own country, which is much more than India, very poor.

So of course we have another problem, that is the public opinion, as one of the distinguished speakers said, is a problem that had to be contended with, where the people within bars are being dealt with better, treated better than those outside bars, merely because they're within prison bars.

Well we -- I didn't answer to that, or the effective answer to that probably is what Mr. Bailon himself said, they do _____ the public themselves to break up that built-in prejudice against the better treatment of -- rather the treatment of prisoners as called upon -- as _____ the standard minimum rules.

It has to be done, I think, at a university or school level at the devotion of some kind of minimum time schedule devoted to the treatment of prisoners as, if I may say so, as

a part of the general knowledge so that when they grow they will know there's an obligation that society owes to those whom they imprison, so that they can break that barrier, and the state will be better armed, or better equipped to more effectually without answering the questions the public raises to implement the rules.

I have something -- I don't want to speak anything further, because I wish to let others also take the floor before it's due to return, and I formally support the resolution before the house.

Thank you.

(Applause.)

MR. : (Inaudible) overcrowding of the court calendar and you overcrowd the jails. Well, we are now Dr. Dent's time.

DR. DENT: Thank you, Mr. Chairman. As an international lawyer I would like to draw your attention to a certain paradoxical situation relating to the -- if you wish -- the link between the treatment of prisoners in time of peace and the treatment of prisoners of war in time of war. In both cases, actually in early times, as you know, the treatment of prisoners in time of peace and prisoners in time of war was either capital punishment or enslavement.

Then, however, development began on a seesaw basis. That is to say in the last millennium, at least, in most national --

in most countries the national legal systems have begun to develop in a way protecting the rights of regular prisoners. Whereas prisoners of war, until the beginning of the 19th century, the Napoleonic War, were still subject either to capital punishment, execution _____, or enslavement.

However, with the beginning of the 19th century international law has begun to take over in terms of POW's, whereas in fact it has not yet made attempt in terms of the treatment of regular prisoners. So we have reached the rather paradoxical situation where today you have international law in force in the form of the Third Geneva Convention of 1949 with very elaborate tools, more than a hundred in number, pertaining to the treatment of POW's in their camps.

Whereas in fact, there is not a single portion of international law relating to ordinary prisoners. These minimum standards are fine, but they are not an integral part of the international law, with all due respect to the comments made comparing it with the universal declaration of human rights. Such, unfortunately, is definitely not the consensus of international lawyers today. In fact, the reverse is true. Even those who regard the universal declaration as legally binding would admit that these minimum standards are not binding, the year anno domini 1975.

Now the problem therefore is what do we do? And you have to bear in mind that many of the rules pertaining to

POW are -- POW's are of great importance to regular prisoners. For example, you have rules in the Third Geneva Convention pertaining to the location of a prison. Now we know that in many countries the regulars are sent to a Siberia, you know, where sheer survival is an effort, where the very survival is a major achievement at the end of a lengthy imprisonment. You have rules with regard to nondiscrimination. In many countries today you have discrimination between prisoners on the basis of race, religion, ethnic origin, or whatever.

In the rules relating to POW's you have important tools regarding to -- who's going to supervise amongst the prisoners the activities of others on the basis of rank, and so forth. Now we have places in the world today where for example Jewish prisoners are supervised by former collaborators with their enemy. That is to say, former collaborators with the Nazis, convicted for that very activity thirty years ago, now veteran prisoners with privilege and so forth, and they are supervising the Jewish prisoners of conscience.

I would suggest that that is simply obscene. There is unfortunately no other adjective that I could use. And I could go on in the same vein.

I would suggest that something ought to be done in that respect.

Now, what could be done is merely implementation. Actually, most of the speakers have neglected the most impor-

tant aspect of the situation, implementation. Who is going to guard the guards? It's not enough to have national inspection, because all these questionnaires of the UN are actually ludicrous. The UN is not actually a mutual admiration society. It's a self-admiration society. When you read these questionnaires every single country on earth always pats itself on the shoulders and regards itself as a paragon of virtue, whereas we all know that that is not the situation.

Therefore, I would suggest with respect to the representative of the UN that these questionnaires are not encouraging, they're discouraging. Discouraging, because actually they are an exercise in -- if you wish -- putting wool in our eyes. And we need implementation by way of inspection by non-governmental international organizations.

Now my colleague referred to the fact that we have a new prison ordinance in Israel in which these minimum standards have been endorsed. I'm much less proud of that and much more proud of the fact that the chairman of the International League of the Rights of Man has recently paid a visit to our two maximum security prisons and according to his report, which was published, these prisons came out with flying colors, which does not prove much. It merely proves that at a given point, at a give -- of time, at a given point in place, these two prisons have passed muster, if you wish. And I think that is important to make sure that similar visits

will take place in our prisons as well as in prisons of other countries, and I would therefore suggest with respect that two new elements be added to that draft resolution, which of course I support. One, a reference to non-discrimination on the basis of race, religion, and ethnic origin, and the other, the need -- the immediate need, the urgent need, for international inspection by non-governmental organizations.

Thank you.

(Applause.)

MR. : May I ask Mr. Scoler to deal with this point raised by Professor Dinstine about discrimination of prisoners on the ground of race, religion, and things like that? My own impression of the rules, though I haven't got the text with me at the moment, is that they are already taken care of in the rules themselves.

MR. : The rules do address that. There's a rule specifically on that subject.

MR. : Yes, we have rule six, which says the following rule shall be applied impartially, that there shall be no discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

Well, the theory of that is there already, but you're

right, there should be some system of impartial inspection, that the rule is being carried out in actual practice. You're right there.

Now after that we have Dr. Carson. Doctor, would you briefly introduce yourself.

DR. CARSON: Yes sir.

MR. : Thank you.

DR. CARSON: I come from Libya. I am a practicing attorney. This conference has rightly decided to discuss the question of implementation of these rules, rather than to discuss any substantive changes to the rules, because unless we make sure to begin with that what we already have is implemented, there is no particular virtue in trying to improve on them.

We have been given in this discussion a remark by Mr. Coler giving us Israel as an example of the state which has fully implemented these rules, and we have heard Mr. Prives congratulating himself and feeling good about this. Unfortunately, we should not, as have been warned by Mr. Wilson, we should not lull ourselves into complacency by hearing statements of this sort. The facts state that the state of Israel does not implement these rules with respect to Palestinian prisoners who are in Israeli jails.

This statement is not mine, but is of the United Nations which have investigated the treatment of Palestinian

prisoners in Israeli jails, have brought out that they are being tortured, they are being mutilated, they come out incapacitated, unable to work, and this is supported by every resolution of the Human Rights Commission. Amnesty International made a similar visit and came out with the same result. Recently in Geneva when on a conference on humanitarian principles for prisoners, this question has been raised, and again we're -- the confidence there in Geneva re-echoed the same statement that we have heard from Mr. Wilson just now, that the apathy with which the international community has treated the treatment of Israel, of Palestinian prisoners, has led Israel to continue in this practice of maltreatment of prisoners.

Mr. Chairman, as regards to the resolution, I support the resolution and I would like to emphasize the two points being made by the earlier speaker just now, who happens to come from Israel, that the resolution should re-emphasize that no discrimination, although this is embodied in the rules, sir, but since we are discussing implementation of these rules I think there is no harm in pointing out to some items of these rules which require greater emphasis by this conference.

We require that no discrimination on the basis of race, religion, or creed, or nationality, and also we would like to have non-governmental inspection of prisons in all states.

Thank you, sir.

(Applause.)

MR. : In spite of the differences about facts, I'm quite happy and pleased with the common denominator between the two speakers.

MR. : Question of (inaudible). We differ on questions of wrong.

(Laughter.)

MR. : But ladies and gentlemen, before the even tenor of this conference is disturbed, even to the slightest possible extent, may I take leave of the house --

MR. : I would take exception to this (inaudible). I have no intention of disturbing --

MR. : No, not at all.

MR. : -- the -- I used the example of Israel for (inaudible). It was referred to from the rostrum there on two occasions, and one speaker was congratulating himself on implementation, and I think since we are discussing the question of implementation it's only proper that -- in a situation like this -- the facts should be brought out.

MR. : Dr. --

MR. : I have no doubt that Jewish prisoners in Israel are treated exactly the same way mentioned by Mr. Prives.

MR. : Dr. Carson --

DR. CARSON: We are talking about the rules internally.

MR. : Even a presiding officer has a right to complete his sentence.

(Laughter.)

DR. CARSON: Yes sir.

MR. : May I, ladies and gentlemen, invite attention to rule four, and I know that the best presiding officer is one who presides least, so this should be a self-executing mechanism, namely the implementation of the rules of this conference, and I don't have to draw attention to the rules and implement them myself. They should be implemented themselves.

Now may I call upon the next speaker, Mr. William Miller of Canada. Is he here?

MR. MILLER : Yes he is. Mr. Chairman --- unfortunately I haven't any prepared remarks, but I want to take this opportunity, coming from Montreal, Canada as a practicing attorney first of all, to congratulate you Mr. Chairman, on an article which was published in recent months in the Indian Law Journal, which has reached parts of Canada, dealing with the muddled situation in the Middle East, and many attorneys who have received copies of that article are very much impressed with the high caliber analysis that you've conducted in this article, and I wish to extend to you my personal con-

gratulations.

I come from a country, ladies and gentlemen, where I don't know the extent of applicability of the minimum rules and how they apply to permission given to prisoners to enjoy their daily baseball games, but it is probably one of the few countries in the world where our prisoners feel free to go on strike if they're not permitted to play their daily baseball games.

However, as humorous as that may sound, I feel that there are situations much more serious dealing with the problem of the treatment of prisoners, and I'm thinking particularly of the information that had been mentioned earlier in the papers presented by Mr. Prives when some of us had the opportunity of seeing and hearing a presentation made by a young man who had reached Washington yesterday, and a former inmate of a prison camp in one of the largest nations in the world. And the situation described to us at first hand is one that is indeed most alarming.

We are speaking here today about the implementation of minimum standards. He described a situation which did not affect him alone, but rather was the general standard of treatment to a certain classification of prisoners which certainly not only are not reaching minimum standards as adopted by the -- or suggested by the United Nations, but are rather most repugnant and could not in any sense of the word be de-

clared to be humanitarian standards.

I feel that the information that has reached this part of the world in regard to that subhumanitarian standard of treatment of prisoners, much of which has been documented, and I am in possession of only one piece of material which has reached us in Canada from London, England, a pamphlet, a 15-page pamphlet headed Insight, which describes these conditions that are prevalent today, this very minute, while we are here discussing these higher standards of conduct which are really minimum standards of treatment of prisoners.

And I feel, Mr. Chairman, that rather than pat ourselves on the back for adopting possibly an innocuous resolution which will give us all a feeling of elation that we've accomplished something, I -- in that regard, innocuous or not, I as an attorney from Canada am pleased to support the resolution, and as amended or suggested amendment by the previous speaker from Israel, I certainly feel that we ought to get down to the nitty-gritty of implementation and implementation, my definition, is the applicability and the putting into practice on a country-to-country basis, starting with the most extreme cases where we know these minimum standards are not being applied and implemented.

Thank you.

(Applause.)

MR. : Thank you, Dr. Miller. I will

depart from the order for a special reason. May I invite Mr. Leo _____ to speak on the resolutions.

MR. : Thank you, Mr. Chairman. What I have to say can be very brief, because most of it has already been said by previous speakers. I feel that the resolution as presented should definitely be endorsed, but I do think it ought to be strengthened. I particularly endorse the suggestion that there be a -- it be suggested that there be meetings of inspection by non-governmental organizations.

I also would like to suggest that we give some thought to the fact that even though this session is dealing with implementation of these minimum standards, it does seem to me that there's a false sense of security that we get from the fact that some countries, perhaps called themore developed, can talk of in terms of having adopted these, and perhaps even implemented them. It would seem to me that the resolution might very well include an emphasis on the fact that these are minimums, and that they should be a starting point in those countries which have achieved them, or which have the ability to achieve them, to move forward to higher ground.

And I would think some reference in the resolution to that thought might help strengthen it.

Thank you.

(Applause.)

MR. : Thank you. We'll bear that in mind

and see if we can suitably modify the resolution.

Now we have Mr. Allan J. Gold, of Berkeley, California.

MR. GOLD: Thank you, Mr. Chairman, fellow delegates. My remarks similarly will be quite brief, because the substance of my thoughts have already been well-expressed by two previous speakers, speaker the gentleman from Israel, Dr. Dinstine, and my colleague Mr. Miller from Canada.

The subject of my remarks was a matter of personal conscience, and that is the subject of the treatment of Jews in a major country of the world, a major world power. The odious practice of subjecting a class of people to persecution because of their religious beliefs unhappily continues today thirty years after the termination of World War II. It occurs in many places, but particularly in one major country of the world, and it's a matter of governmental policy, and this is the matter that should concern us primarily.

It is not a matter of isolated incidents. We know these take place in all systems. Nothing is perfectly. Certainly, when you're talking about penal systems, we know that there are going to be abuses on individual levels. But what we cannot and must not tolerate is a matter of arbitrary abuse collectively applied as a matter of policy by any government.

To that end I endorse the resolution with the modifications, the amendments that have been proposed. I whole-

heartedly endorse the principle of impartial international investigation of conditions in national penal systems, and I insist and request that the results of these be freely and courageously reported to the world. This is our most important weapon against these abuses.

Thank you very much, Mr. Chairman.

(Applause.)

MR. : Mr. James Bennett, director of the Federal Bureau of Prisons.

MR. BENNETT: Mr. Chairman, I am the former director of the Federal Bureau of Prisons. I have been retired for almost a decade. I did, however, in my former position, have some part in the adoption of these rules, and I'm very happy to see it discussed here in detail, because I think that the implementation of these rules would be a most important step to peace. The denial of access of one nation to his nationals in another prison is an irritant that breeds hatred and anger. And if we could implement these rules so that we could have access to prisoners and find out and investigate some of their problems and troubles we would have taken a long step forward towards peace.

Now, it may be, Mr. Bailon, that we might need to revise or update, perhaps, these rules in some particulars. We've come a long way in improving our institutional systems, and in fair treatment of prisoners, but one of the things we

need to do, it seems to me, is set up some kind of machinery within the institution itself where the offender may have access to some kind of grievance procedure. That's being done in the United States in a number of places, and if we could set up a grievance procedure where the men could go and air their problems and troubles it would I think improve the situation and reduce the -- oh, the degree of hostility within the institution.

One of the problems also is that this reform of our correctional institutions goes hand in hand with reform of our court system. Someone suggested here that prisoners are awaiting longtime in prison, awaiting trial. Well that's true. I've visited some of these institutions in foreign countries and a great many of them are held in prison for a long time before their case comes to trial. That's true in the United States also, and we must therefore, I think, link this improvement of our correctional system to our court system, which is being done, I suppose, and presumes, by other divisions of this conference.

Another thing that I have found as I've visited around in various places, there's a tremendous amount of goodwill among the men who operate these institutions who want to improve the conditions of their institutions. They not only lack the money, in many places, but what they lack is the technical assistance, the knowhow, to improve these situations,

how to improve their medical service, how to improve their diets, how to do various and sundry other things at a minimum cost.

The United Nations could make a contribution in that way to providing the technical assistance.

Another thing, it seems to me that we must undertake at a fairly early date some kind of machinery as has been suggested here, some kind of inspection machinery, where a unprejudiced team, if you please, could go and look at these greivances. I noticed in the newspaper the other day that one of the African countries was belaboring Amnesty International for interfering with their sovereignty, because they had had the temerity to go into their institutions and inspect some of these greivances.

I think that that's one of the ways in which the United Nations can be of help, not only in passing this resolution, but couldn't we expand that resolution to suggest that the United Nations undertake to develop and -- I don't like the word inspection system, to undertake some method of collaborating with the nations signatory to these rules for their implementation. Would that be a feasible thing, Mr. Emilon?

MR. EMILON: Shall I answer immediately? Because --

MR. : (Inaudible.)

MR. EMILON: -- it was one point more I would like to comment on.

MR. : Yes, that information --

MR. : All right, please do.

MR. EMILON: I think that if we do these things, as I said at the outset, it would be an important step to peace, an important step in implementing the human rights treaty. It would be, as Mr. Churchill said, that the mood and temper of the people -- you remember? -- is with regard to the treatment of offenders is an unfailing index of the civilization of that country. I think that if we accept his suggestion we can do much to improve our peaceful relations with the rest of the world.

Thank you very much, Mr. Chairman.

(Applause.)

MR. : Thank you. Plus, if you'd like
to --

MR. : Yes, please. May I start too with --

MR. : Please, (inaudible).

MR. : Okay.

MR. : Otherwise it's not recording.

MR. : May I start too with quoting Winston Churchill. He said, if I'm not wrong, after the Allied invasion in North Africa, 1942, that this is not the end. This is not even the beginning of the end, but might be the end of the beginning. And certainly there is very much more to do in the field of the implementation of these standard

minimum rules.

The first question, Mr. Bennett, I would like to comment very briefly on, that is -- and that's a question too which has been mentioned before, that is the revision of the rules. You refer particular to the possibility to involve more actively the prisoners in the rehabilitation work, if I caught you right. Let me just say that there is nothing in these standard minimum rules that serve to prevent such a development, and as a matter of fact it has been tried, too, in several countries in different parts of the world.

And here again I would like to draw your attention to an -- to a certain extent, at least -- an alternative way to the revision of the rules, and that was as I mentioned before a commentary on the rules which can make certain questions more clear.

There is, as I said, nothing in the standard minimum rules preventing an active involvement in the offenders, in the rehabilitation work, and let me quote the working paper from the United Nations Secretariate to this Congress, to the Congress in Geneva, excuse me, where we say:

Also, Rule 28 (that's in the standard minimum rule) prohibited the practice of granting a prisoner disciplinary authority over other prisoners. The working group -- and that was the working group on the standard minimum rules of the United Nation -- the working group suggested that the commen-

tary might make it clear that the rules did not militate against prisoners being given responsibility in such areas as the organization and execution of institutional work or education or rehabilitation programs where inmates might exercise supervision over others without having the authority to punish or impose disciplinary measures.

Of course there is a need to revise certain rules. But there is disadvantage with the revision, and that is that several countries in different parts of the world have adopted the rules in their national legislation, and they are certainly not inclined -- at least not in the beginning -- to change those laws.

The question of revision of the rules have been the subject for discussions at the Kyoto Congress, 1970. It has been discussed by the UN working groups on the standard minimum rules, and the same question was once again brought to light at the last Geneva congress. And there was unanimously support for the idea that for the time being the most important thing is to implement them better before we are revising the rules.

To your next question, Mr. Bennett, and that was the idea, the brilliant idea and the needed idea with sup -- some kind of supervise -- international supervising machinery. True, that is needed, but even here I am sorry to say that I feel that we have a long way to go. And might be it is neces-

sary in order to really create an effective supervisory machinery to give the standard minimum rules the status of convention.

Might be that should be our goal, but let me say too while the grass is growing the cow is dying, and it is measures of today we need.

Thank you very much, Mr. Chairman.

MR. : Thank you, _____ . Now we have Mr. Logan, John, of Ghana.

MR. LOGAN: Mr. Chairman, I think in our approach to this resolution, which is sought, and in our approach to this question of the treatment of prisoners, we ought to bear in mind that there are really two dimensions to the problem. There seems to be a tendency to be caught in what I would say is the first dimension, and that is a broad question of penal prison reform, and several speakers here have sought to regale us with what are the good conditions or bad conditions existing in their country.

The other dimension will be the particular treatment which I would say is meted out to prisoners either on occasions when you have some civil disturbance or commotion or where the body which is meting out the type of treatment to the prisoner is motivated by some form of prejudice or some fear of bias.

I think that the more pressing problem relates to the type of treatment which is meted out to prisoners when there is some sudden commotion, or some sudden disturbance,

and although the working paper gives a very broad account of the entire position and it sets out a number of remedies, I see that alliance has also been -- reference has also been made to complaints of the ombudsman, which of course is an institution operating in the country from which I come, but I think that we all have to come back to the point which has been the emphasis of the meeting here, that implementation is really the question.

I would feel, therefore, that while the resolution in itself is commendable, and should be accepted, consideration should be given to whether the resolution could not be modified to lay particular emphasis on the second dimension of the problem, to which I seek to give my view, and that is in circumstances where they are motivated a very _____ civil disturbance or the like.

My reason for that is that if we once begin to discuss this whole thing on the very broad basis we'll be too caught up on the whole question of prison reform, which has so many dimensions, in some cases, where I've seen speakers who have spoken of their experiences, I have myself had some. I used to be one time a minister of the interior in my country. But then you're caught up with many other things, the unwillingness of government to spend things like prison reform, because you know, that is not a subject which is often a very popular one in the budget. You will get any amount of

money for economic development, but not for prison reform, even if it covers the treatment of prisoners in all their various aspects.

For that reason, as I said before, I think that if we can modify our resolution so as to give emphasis to what I feel is more the _____ of the complaint of the meeting is to express that we will have done well.

Thank you, Mr. Chairman.

(Applause.)

MR. : Well the next, and I think the last but one speaker, is Mr. Cecil B. Cohen.

MR. COHEN: Mr. Chairman, my name is Cecil Cohen. I am from East Chicago, Indiana. And I have had 48 years of experience in Criminal law. And I think that at least qualifies me to make a suggestion.

I support the resolution because I believe it is elementary that we should treat all people as human beings. However, I hope it will not be thought disrespectful if I make a short suggest. I honestly believe that you honorable gentleman have gotten the cart before the horse. I think the most important thing in criminal law and dealing with people that are about to be sentenced is whether they ought to be sent to the institution at the first instance.

You know, when you take a young boy 14, 16 years old and put him in prison with archcriminals he will never be

rehabilitated. These architects of crime will show him a way after he gets out how he can perform an act and they never feel that they'll ever be caught. So it is my suggestion, and due respect to all of you gentlemen, that you concentrate a little bit more on the idea of having a hearing before you send a man to prison, and see whether or not he can be rehabilitated before he gets in the institution.

I note my experience before the American Bar Association, with due respect to Mr. Scoler, we've talked about the criminal part, and we know and we feel that it costs about ten thousand dollars a year to have a man incarcerated. It costs about \$3,000.00 to investigate and see whether or not he shall be sent to the institution or be placed on parole with the privilege of walking the streets, and also the idea of mingling with his fellow men so that he has an opportunity to be rehabilitated from the ground source.

And that brings me to my point. I don't know what other countries, or what their rules are, but I am a firm believer in plea bargaining so that this can be accomplished.

Thank you very much.

(Applause.)

MR. : I don't know whether you are right, that we put the cart before the horse, but we have some limitations set by those who set the program. Now we have Professor Guggenheim of the U.S.A.

Well my congratulations. The first lady to take the floor.

PROFESSOR GUGGENHEIM: Thank you. My name is Malvina Guggenheim, and I teach, among other things, international law and criminal procedure, and I'm a visiting professor at the University of Virginia.

I want to endorse the amendment for inspection by a non-governmental agency, but I would very much like to see added in that amendment that such inspection should be composed in each instance of persons from countries that do not have a political interest in the underlying controversy. I think, as Mr. Wilson pointed out, a lot of prisoners are imprisoned for political reasons, and while the UN generally provides, when it sets up a commission or a committee, for geographic distribution, it has in the past failed to add that particular proviso.

For example, an article, very scholarly piece, in the Santa Clara Law Review of 1973 points out that two UN commissions which had undertaken an inspection in a country and found that there were violations alluded to earlier by the attorney from Libya, was composed of three members, two from countries that did not recognize the particular state, and the third from a country that considers itself to be in an official state of war with the state.

Now that would not be the best possible group, I

would think, to conduct an inspection, and if we are serious about having a group conducting inspections, and I think we are, and I think every group, whether you're interested in the conditions of Palestinians in Israel or of Jews in the Soviet Union or of anybody else, we're all, I think, agreed that international inspection would be good, and if that inspection is to be meaningful and significant it should be composed by persons who are disinterested in each instance in everything except assuring good treatment to the persons in prison.

Thank you.

(Applause.)

MR. : Ladies and gentlemen, we have run through the list of our speakers, and there's a request for another intervention _____ Dinstein. I would appeal to him to withdraw that request for obvious reasons. I don't think it's really necessary.

In the meantime, may I request my panelists here, if they wish to make a few fresh observations on some of the points which have been raised from the floor, and may we start with _____ first.

MR. : I have no comments.

MR. : You have no comments to make.

Professor Arnold?

PROFESSOR ARNOLD: NO, I have nothing.

MR. : No?

MR. : I have already spoken too much.

(Laughter.)

MR. : You could do with a little more.

Well --

MR. : Just a short comment. I think we all agree that a kind of --

MR. : I hope you avoid any controversy.

MR. : I will try to. Just to put facts the way they should be put, I think in clear, I have known some of the main prisons of the state of Israel. In one of them, in the prison of Ramla, there are more than fifty percent of the inhabitants which are what my colleague -- and I hope I can call him my friend one day, of Libya -- calls Palestinians, imprisoned in fair trials. I have visited them not as a visitor from the outside, that photographed a certain situation at a certain moment, but whenever I come and I can give evidence, on eyewitness, that they get the same fair conditions and the standards that the Jewish prisoners get.

Now, there is no doubt that we all agree that the way of supervision should be I would say implemented from international supervision with the addition that I fully support and second that Professor Goggenheim just now made, that it should be impartial supervision by an international group that should come and every door is open for every such supervision in Israel.

Thank you.

MR. : Thank you. I think we --

MR. : One word (inaudible).

MR. : Yes, certainly.

MR. : Thank you. I have no intention of entering into a controversy. This is a factual matter, and I would like to refer our learned speaker to the reports of the Israeli Committee on Human Rights, and I think -- I'm sure he has read them, and he will see that those gentlemen who were concerned about human rights were very gravely concerned about the treatment of Palestinian prisoners in Israeli jails.

They speak about torture, maltreatment in every respect, and also those who visited Israel were not only from the United Nations, as explained earlier, there had been many reports, and every meeting of the Human Rights Commission of the United Nations had condemned Israel for the violation of human rights, including these very rights.

I think if we need to bring documentation on that subject we shall be very ready to do so.

MR. : Dr. Carson, you remind me of a lawyer for the plaintiff who was once asked by a judge to summarize his argument in one word. He threw up his brief and said, "My Lord, decree, decree, decree." I wish you could have emulated that. Now in fairness, Dr. Carson, may I permit _____ to say one word, and one word means one word.

(Laughter.)

MR. : Yes, I guess that I would have to say disagree, disagree, disagree.

But as you know, gentlemen do not argue about facts. Nevertheless, I would like to point out to you that number one, I'm not aware of the existence of such an Israeli body on human rights, and I'm under the impression that I'm a member of every single human rights body in Israel in sight, of some of which I happen to be the chairman, such as Amnesty International, and I don't know of any such report that was alluded to either.

But I would like to draw the attention of the gentleman from Libya to the fact that unfortunately there is a state of war in the Middle East. As all of you are aware, of your own personal firsthand experience, in time of war the propaganda machine on both sides usually works beautifully in terms of casting accusations, leveling them against the other side.

Unfortunately, at this moment, we have no -- we are not -- we are unable, actually, to visit each other's country in order to verify for our own selves whether these accusations are right, wrong, or in between, and I've heard similar accusations -- in fact, I would dare to say even worse accusations -- about his own country. I'm sure, however, that they're not true.

However, I will extend to the gentleman invitation to come to Israel, and I'm prepared to guarantee to him, as a

member of all those human rights organizations, that I referred to before, an opportunity to visit our prisons, whichever prison he wishes to see, whether it's maximum security, minimum security, or in between. I wish, however, that before we have that supervisory machinery that I've suggested before, I shall get a similar invitation from him in order to visit Libyan prisons and perhaps some Arab prison of which I've heard similar stories.

Thank you.

(Applause.)

MR. : (Inaudible) why don't you talk it over amongst yourselves over a cup of tea or a glass of whiskey.

(Applause.)

MR. : Mr. Chairman, I would like to offer some specific language to the resolution. This is a third --

MR. : Amendment.

MR. : -- resolve, and be it further resolved that the United Nations establish a mechanism for collaborating with member countries for the implementation of the rules. I offer that, Mr. Chairman.

MR. : We are thinking on these lines, and we are drafting a slight amendment of the original resolution to meet this viewpoint.

In the meantime, I have a suggestion from a very distinguished friend from Iran, Mr. Hashmir -- did I pronounce

it right? -- he says not having enough budget and lack of technical instruments cannot be considered the only reasons for not being able for better treatment of prisoners. I believe the only way is changing these institutions into rehabilitation and correctional institutions.

The main remedy for reform in the prisons into an ideal correctional institution is to set up an international board of inspection in order to supervise the prisons of different nations by those countries who are the members of the United Nations for the purpose of inspecting prisons of different countries with providing sanctions for this purpose.

But that's the same idea which is being worked out, Dr. Hashair.

Now, the distinguished chairman will take the mike and address you for a while. And it's all yours, sir.

MR. : Thank you. When he says address you for a while, don't be alarmed. It's going to be a very short while. But perhaps I may be excused for taking a somewhat legalistic approach to the matter under discussion, because we are a gathering of lawyers, and it is important to recall that the object of this meeting is not to discuss the adequacy or inadequacy of the minimum rules recommended, but rather their implementation.

Now in addressing a body of lawyers, which I also include judges, we must remember that lawyers operate in two

spheres. They operate within their own professional sphere, both as judges and as counsel, where they have a considerable degree of power by using the institutions provided. They also operate outside those institutions as citizens of greater or lesser influence as the case may be, depending perhaps on the individual or the community.

Now, the resolution which has been put before you for consideration takes this into account. That's why the first part of the resolution deals with the functions and the powers of the lawyer and the judge within the court sphere. Now, the draft -- the minimum rules recommended by the United Nations proceed on a basic assumption that the deprivation of liberty is the punishment. Proceed on that assumption, then. Every judge and lawyer engaged in criminal procedure which results in a deprivation of liberty has as his function to see that that is all that happens to the prisoner.

As has been pointed out recently elsewhere, to be deprived of loss of liberty for five or ten years -- or months, as the case may be -- does not necessarily, nor should it, be deemed to include being condemned to five or ten years of bad food or dirty clothes or other inadequate conditions. It may well be that some people may desire that punishment should be such, but the law doesn't say so, at least not in the context in which we're discussing it.

So it is not a question to condemning a man to a life,

if it's life imprisonment, of -- I think it was -- was George Bernard Shaw, he puts in the mouth of one of his characters, to eat the bread of sorrow and drink the water of tribulations for the rest of his life. It is deprivation of liberty.

Therefore, I would suggest the first part of the resolution saying -- as allowing the judge to bear in mind that his function does not cease when the man disappears from the dock. If he has sentenced him to so many months or years of loss of liberty then I would venture to suggest that if anything worse than that happens to the prisoner then he is not being detained in accordance with the order of the court, and it is the court's function and the lawyers who are engaged in the matter to see to it that that matter is put right.

It may be by habeas corpus or some other procedure, but this is where the first part of the resolution is aimed, that it is within the power of the lawyers and judges involved to see that nothing more than the sentence actually imposed by the court is what happens to the prisoner. In practice, unfortunately, a prisoner disappears from the dock and nobody really knows what happens to him afterwards. It is the judge's function, in my view, to follow it up and to hear the necessary complaints, if the subsequent conditions of imprisonment do not conform to the basic order made by the court.

Now the second form of the -- part of the resolution is aimed at the function of the lawyer and the judge outside

court, to use his influence in the public, and among the public -- members of the public he meets to deal with the very situation which the learned professor from New Zealand and our very learned distinguished colleague from Ghana has mentioned. We call it the public antipathy, if not actual resistance, to improvement, because it is fundamental that prisoners have rights. Therefore, it's a question of conditioning the public to recognize that and to implementing these rights.

And thirdly and lastly, it may -- I deal with the matter which have been _____ so much, the question of insuring that there is some form of international enforcement of this. Now I quite see the difficulty of bringing this within the sphere of international law, if it refers solely to domestic matters. One might build up a body of -- custom of international law if you could start off by dealing with the treatment of foreign nationals in a national prison. But the -- it has been suggested that the resolution be further added to by the words that the meeting supports measures which might lead to the more effective implementation of the standard minimum rules, the treatment of prisoners, and specially urges that inspections of correction facilities be undertaken by an independent international non-government organisation with the view to ascertaining whether the day-to-day operation of correction facilities is in accordance with the minimum rules.

Now, personally, of course, I have no objection with

that, but I do doubt the realism of it. In the European Convention of Human Rights, which operates in a small geographical area, this type of matter is looked after not by international inspection, but by providing a forum aimed at the European Commission of Human Rights, subsequently one can go to the court of Human Rights to enforce this.

And the member countries which have agreed to individual petition, a complaint by one of its own citizens or a citizen of another country within its jurisdiction, can complain to the central organization, namely the European Convention -- Commission, or the Court, that the rights guaranteed among the convention are not being -- are not being given to them, can bring that country before the International Tribunal, which in my view, and from some experience I've had with it, is a far more salutary thing than the occasional and well-heralded visits of international commissions, because prisons can be improved out of all recognition if you get six months notice that there's going to be an inspection, and when the inspectors have gone it is impossible that they would be back for another couple of years.

Whereas, if you have the internal structure I have spoken of, which the Council of Europe and the Convention of Human Rights in Europe provides for, then you have a day-to-day existing procedure whereby the victim himself, or his lawyer, can bring a complaint directly, and it can be dealt with

not in the light of what some inspector may see, but on the evidence which may be given by him and other prisoners. And in actual practice in such cases the Commission of Human Rights in Europe will then send representatives to take evidence in the prison. If the prisoners are not brought to Strasbourg. And this, in my respectful view, is a more practical way of insuring that these basic minimum rules can be observed and enforced.

So far as the resolution stands, it stands with the third paragraph, as I've suggested, but I've merely indicated a personal view that I think the last matter discussed is a far more effective method of doing it, though it might take perhaps some years to achieve this degree of international agreement to such an idea, but it has been achieved in Europe. It has proved effective in respect to Greece, Cyprus, I won't mention my own country and another country because it's _____ at the moment, but -- don't wish to introduce these matters, but it is effective, and it has in practice proved to be very, very effective and salutary, so far as defaulting country's concerned.

Inspectors, and even in the national sphere, every -- in my country every judge has a right -- as a right can knock on a prison door and go in and say he wants to see the place, but it doesn't happen in practice. If I were to indicate I wish inspect a prison I'm quite sure that the prison would

probably look a lot better than the day before I indicated that. So the only effective way of doing this is to have the internal machinery whereby the victim or his relations or his advisers can put the machinery into action.

Thank you.

(Applause.)

MR. : Well, ladies and gentlemen, I take it now it's time to put this amended resolution to vote. Speaking for myself I would like to have a further amendment of this resolution: Resolved, that Dr. Passim and Dr. Dinstein extend mutual invitations to each other to visit their countries.

(Applause.)

MR. : However, that is perhaps not to be. We leave it at that, therefore, and let's vote now on the three parts of the resolution as it stands. I fully share the reservations which Judge Walsh has about the third part of the resolution, but I think it meets the consensus of opinion, and not only of the whole house, but at least of those two major parties who seem to be caught in this somewhat unavailing controversy.

And if it meets their viewpoint I suppose it meets the viewpoint of all of us. We will be very happy that it does satisfy them. So I recommend this resolution, and will you indicate your acceptance of this resolution by raising



your hands. Those in favor of the resolution.

Those against it. So the resolution is unanimously passed, and that, Mr. Chairman, I suppose concludes the proceedings of this session.

Thank you very much.

(Applause.)

(End of proceedings as recorded.)

WORLD PEACE THROUGH LAW CENTER

World Peace Through Law Conference
Washington Seventh World Law Conference
Continental Room, Tape One

Washington, D. C.

October 16, 1975

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P R O C E E D I N G S

MS. : Will receive the delegates to this conference at the White House and will speak to us personally at 3:00 o'clock with that in mind, we are told that we should conclude our session this morning at 10 minutes to 12 for those who are attending the luncheon so that they, in turn, may be at the White House at the appropriate time. And, so as our speakers speak today, we will try to keep to the limitation of 15 minutes per speaker then allow the audience to participate and, as you know, under the rules, if you do wish to make a comment or suggest a resolution, you should hand your name in to me in writing indicating your name, your country and the topic to which you wish to address your comments.

It is with a feeling of great enthusiasm and excitement and optimism that many of us have returned from Mexico City, where we discussed in this great in this first really international Women's Conference, the subjects of equality, development and peace. And, as Judge K. K. said, we found that whether we came from east or west or north or south, that we all believed in universal education, that we all believed in the abolition of poverty, that we all believed in the abolition of racism and we all believed in universal health. And so we are here today to discuss how all of us, men as well as women may establish for ourselves new lives upon this continent. And, with respect to peace, at the Mexico City conference

special reference was made to the role that women might play in bringing about international peace. This is not in any way to suggest that women are superior to men, but this special quality of women, I think was best expressed by a wonderful Persian writer, by the name of Abdu Bahar to the women's freedom league in 1912, in London, when he said, "woman by nature is opposed to war she is an advocate of peace, children are reared and brought up by mothers who give them the first principles of education and labor assiduously in their behalf. Consider, for instance, a mother who has tenderly reared a son for 20 years to the age of maturity, surely she will not consent to having that son torn asunder and killed in the field of battle. Therefore, as woman advances toward the degree of man in power and privilege with the right of vote and control in human government, most assuredly war will cease for woman is naturally the most devoted and staunch advocate of international peace."

As you all know the United Nations charter provides as one of its purposes the promotion and encouragement of respect for human rights and fundamental freedoms of all. Without distinction on account of sex, and this theme of non-discrimination based on sex is further enumerated in the universal declaration of human rights and, as you know, the United Nations has a commission on the status of women which is devoted to the establishment of international legal standards

through instruments adopted by the general assembly.

In all of your packets you should have received the excellent article by Charles Rhine, entitled, "The Law and Women," and if you do not have it, I'm sure that at the registration tables they will give it to you.

On page 15 of that article, the five instruments specifically devoted to matters concerning the status of women are listed, including the convention on the political rights of women, the convention on the nationality of married women, the convention on consent to marriage, minimum age for marriage and registration of marriage and declaration on the elimination of discrimination against women.

In preparation for this conference, one of our very distinguished panelists and you're going to be delighted with our panelists, is one of the most distinguished group of men and women, with whom I have been privileged to associate. Rachel Manja wrote a paper called, "The Socio-Legal Status of Women in Sub-Saharan Africa," and this paper should be available at least by the end of this session in the back of room and although this paper is pointed toward the specific issues concerning women in Sub-Saharan Africa, Miss Manja has covered many of the universal problems with respect to women and any of the participants will be referring to her paper and I strongly urge that you get a copy of this paper before you leave. And, in addition, we will be referring to the booklet

by Mr. Rhine and, in particular, with respect to what is going to happen in the future, I would like to lastly refer in the booklet by Mr. Rhine to the world plan of action, listed on pages 24, 25 and 26 of the law and women, calling for a plan of action to take place in the next decade which calls for around the world and these are the universal standards towards which we ask the governments of the world to look, a marked increase in literacy of women. Of the 800 million illiterates in the world, 500 million are women. Extension of vocational training in basic skills including modern farming methods, parity of enrollment at the primary level of education, increased employment opportunities for women, establishment of infra-structural services in rural areas, enactment of legislation on voting, and eligibility for election on equal pay and on equal rights, and increased participation of women in policy making positions at the local, national and international levels.

In the program the reporter as listed from the Netherlands, Dr. Dietrichs Vorshure, I regret to say is not in the audience, unless she has arrived within the past few minutes, and we have asked to serve as the reporter for this session our delegate from Uganda, Rachel Manja.

The first member of our panel will be Dr. Lung Chu Chen of the Yale Law School in the United States of America. Dr. Chen received his bachelor of laws degree by the national

Taiwan University, his master of laws degree from Northwestern University and his JSD from Yale, where he is a senior research associate. Currently, Dr. Chen is working in collaboration with Professors Myers MacDougall and Harold Laswell of Yale on a comprehensive, policy oriented treatise on human rights and world public order. It is a great honor to present to you Dr. Lung Chu Chen.

DR. CHEN: Thank you. Madam chairperson, honorary and presiding, fellow panelists, ladies and gentlemen it is indeed a rare privilege to be asked to speak first before all the women panelists. It takes, of course, a good deal of courage to do so, considering I am the minority one on this panel.

As we join in commemorating the international woman's year to promote equality, development and peace, the global concern for outlawing sex based discrimination has continued to grow. This increasing concern builds upon and expresses a more general norm of non-discrimination. This norm seeks to forbid all generic differentiations among people in access to value shaping and sharing for reasons irrelevant to individual capabilities and contribution.

Despite marked improvement in status in recent decades, women around the world still face deep pervasive and destructive discrimination. The concept of maleness of femaleness differs in different cultures and the specific tasks and responsibilities expected of the two sexes vary from one

society to another. However, the existence and perpetuation of distinct sex roles as dictated mostly by men characteristically result in male dominated societies in which women are regarded as quote, "the subordinate sex, the second sex, the weaker sex or the other," end quote. The deprivations impose upon the grounds of a sex, both historical and continuing occur in all the value insitutional processes in the shaping and sharing of respect, power, enlightenment, well being, wealth, skill, affection and rectitude.

A brief illustration with regard to each value will suffice. The deprivation women suffer commences with the second one, respect, they receive in practically every human society. In the power process the (unintelligible) women lags far behind that of man. In some communities women are still denied the right to vote, right to hold public offices. Where the right to vote and office holding is formally recognized, there is in fact and conspicuous under representation of women at all levels of government in higher decision making posts.

Under the inherited doctrines that quote, "woman has no legal existence separate from her husband who is head of the family," unquote, the acquisition change or loss of a nationality of married women is often made to depend upon the marriage relationship and automatically to follow that of her husband in disregard of her own wishes.

In the fear of enlightenment, denial of equal educa-

tion opportunity on account of sex is still widespread. The access of women to education, especially higher education, is either denied or restricted in comparison to man's. Women are deprived of opportunity to acquire, develop and exercise a range of socially useful skills. The skills women possess tend to concentrate in a small number of occupations especially in what are known as female jobs.

In regard to well being, the physical and mental health of women are often impaired by burdens of involuntary childbearing. Discrimination against women in the world sector is particularly pronounced. Under the arbitrary division of occupation into men's work and women's work, women are typically over represented in the low paying jobs and under represented in the higher paying jobs.

Numerous restrictions with varying degrees of civility impose on married women's rights to acquire, administer, enjoy, dispose of and inherit property. With regard to the affection value, the partnership between husband and wife is often more unequal than equal. Women are often denied autonomy and equality in decisions relating to marriage and choice of spouse as well as decisions during marriage and marriage dissolution.

In the formulation and application of the norms of rectitude the most distinguishing features, of course, the prevalence of double standards. What is permissible for

the man is often made impossible for women. Impermissible for women. This is most conspicuous in the area of sexual morality.

The cumulative impact of the various deprivations as I have just described further handicaps women's capability to participate effectively and responsibly in the social process and foster what is called the syndrome of marginality such as withdrawal, submission, inferiority and passivity. From the standpoint of a scholarly observer identified with the whole of humankind, it appears that the group differentiation of individuals upon the basis of sex for the purpose of allocate and access to value processes is as inimicable to the fundamental policies of human dignity as group differentiation based upon ethnic characteristics.

It cannot promote freedom of choice for the individual to allocate benefits and burden in social process upon putative qualities of maleness and femaleness rather than upon the actual characteristics and capabilities of individual persons. Nor can such arbitrary differentiation provide opportunity for the discovering, maturing and exercising of latent talent for self-awarement and for contribution to the aggregate common interest.

The most rational general community policy requires the complete emancipation of women without continencing the subordination of man.

The joy toward irradiation of sex-based discrimination like the design to eliminate racial discrimination has in recent decades been the vital component of the trend toward a more general norm of non-discrimination. From the United Nations charter through the universal declaration of human rights, to the international covenants on human rights, the broad general norm of non-discrimination has consistently specified sex as among the impermissible grounds of differentiation.

Significantly, each of the two covenants contains a special article on the equality of the sexes, obliging the contracting states to insure the equal right of men and women to the enjoyment of all the protective rights. The general norm against sex-based discrimination is further reinforced by a number of conventions, global and regional and other authoritative expressions oriented toward the protection of women against particular vulnerabilities or in regard to particular values.

Thus in 1951, the equal remuneration convention was adopted by the international labor organization to put into effect the principle of equal remuneration for woman and men workers for work of equal value. Of special importance in relation to both formal and effective power, is a convention on the political right of women adopted by the general assembly of the United Nations in 1952, it seeks to equalize the status of men and women in the enjoyment and exercise of a political rights. The convention reflected a widespread recognition that

achievement of full status for women as citizens was a key to acceptance of women as equal participants in the life of the community. In 1957, the convention on the nationality of married women was adopted by the general assembly in an effort to eliminate the automatic effect on the nationality of the wife of marriage, its dissolution or the change of nationality by the husband. The major thrust of the convention is to substitute the principle equality between the sexes for the anachronistic doctrine of the unity of family.

In striking at another deprivation of the broad concern the 1958 convention concerning employment and occupation prohibits discrimination in employment or occupation on account of sex or other grounds. Similarly, the 1960 convention against discrimination in education forbids discrimination on account of sex and other grounds in regard to all types and all levels of education.

In 1962, the convention on consent to marriage, minimum age for marriage and registration of marriages was adopted by the general assembly. It seeks to insure, in effect, equal rights of women and men as to marriage, during marriage and marriage dissolution by virtue of the principle of free consent to marriage and prohibition of child marriages.

The basic framework in which community expectations against sex-based discrimination are crystallizing is indicated in the declaration of elimination of discrimination against

women of 1967, and in the draft convention on the elimination of all forms of discrimination against women, still under consideration by the United Nations commission on the status of women. Whatever final form this draft convention may take, its substantive content is not likely vary greatly from that of the version presently before the commission. The declaration and the draft convention drawing heavily upon the parallel formulations in relation to racial discrimination spell out in both broad and detailed terms the basic norm against discrimination, the commitment to effect necessary changes in both authoritative and effective power processes within national communities and the content of prescription in relation to various critical sectors where women most require protection.

The declaration states the basic norm of non-discrimination in article one, quote, "discrimination against women denying or limiting as it does their equality of rights with man, is fundamentally unjust and constitutes an offense against human dignity," unquote. The draft convention in its first article and its contents with the concept of discrimination, quote, "in this convention the term discrimination against women shall mean any distinction, exclusion or restriction made on the basis of sex which is the effect or the purpose of nullifying the recognition, enjoyment or exercise of human rights and fundamental freedoms in the political, economic, social, cultural or any field of a public life," unquote.

This formulation, evidently adopted from article one of the convention on the elimination of racial discrimination would appear to encompass a very broad prohibition. To promote necessary changes and effective power processes, particular emphasis is placed upon a change in people's predisposition about a stereotyped role for women and upon cultivating more healthy perspectives about appropriate roles for women and men in the contemporary world.

Both the declaration and the draft convention spotlight certain creative arenas as areas in which women are particularly susceptible to deprivation. And we find some of the prior conventions which have been noted above. They offer details, specifications of a range of a protective right, embracing all important value sectors, notable power, enlightenment, wealth and well being and affection.

In relation to power, both the declaration and the draft convention stress the equal rights of women to voting and office holding, to nationality and to legal capacity and freedom of movement. In relation to the affection value, both the declaration and the draft convention enunciate the principle equality of status of husband and wife in entering into marriage, during marriage and its dissolution.

Both the declaration and the draft convention contain provisions aimed at equal access of women and men to enlightenment skill, notably education and vocational training.

In the sectors of wealth and well being, the equal protection of men and women is extended from the right to work, the right to equal pay for work of equal value, to the right to various benefits. The profound concern for eradicating discrimination on account of a sex, containing the declaration and the draft convention has been fortified by many parallel expressions emanating from various United Nations and related bodies. Most recent such expressions were vigorously articulated as (unintelligible) at world conference of international woman's year in Mexico.

On the regional level sex is included among the impermissible grounds of differentiation both in the European convention on human rights and the American convention on human rights. Nationally, there's an overwhelming trend to a prescription of equality between the sexes.

In the face of the glaring gap between prescriptive norms and actual behavior, the authoritative formulation of particular human rights may, at first, seem visionary and utopian. Nevertheless, it is the first indispensable step toward the defense and fulfillment of human rights. The formidable challenge of implementation of a norm cannot be addressed until there is consensus on the norm itself. Only then can one proceed through provision of arrangement necessary for effective application commonly known as measures of implementation.

The existing provisions for implementation and appli-

cation of the vast body of trans-national prescriptions designed to insure equality of women with men is even more primitive than that designed to minimize racial discrimination. It is hoped that the draft convention on the elimination of all forms of discrimination against women will be adopted by the United Nations without further undue delay. More importantly, it is critical that effective machinery and measures of implementation at least comparable to those provided in the international conventions for the elimination of racial discrimination will be incorporated into the draft convention.

One great step toward more effective application might be constant invocation of a trans-national prescription in national arenas. At present council too often neglect this important source of authority. It is highly probable that in future years these recent initiatives will be sustained and extended by currents that pervade the global community. The degree to which effective application of the new prescriptions forbidding sex-based discrimination can be secured, will of course depend in major upon the general state of human rights and how the norm of non-discrimination in all other sectors is protected.

Since many of the deprivations impose upon women are attributable to long held traditions about unique roles ascribed to them childbearing and child rearing, it is possible that explosive growth of the biological sciences will exert

a profound influence on the role separation of the sexes. As a biological constituent of an earlier day are transmuted in biological and culture choices, the alternatives open to world public order will be less and less constrained by yesterday's rationalizations of sexual difference as a means of justifying the subordination of women.

As expectations of violence persist in the world of inter-dependence and universalizing science and technology it may also be increasingly recognized as foolhardy for a public order to maintain discriminations against half its population. Compromising the security of the whole by failing to enlist and employ the latent capabilities of the deprived half.

It is finally most unlikely that the insistent demands of the hitherto deprived half for equality will lessen in intensity. In conclusion, concerted efforts by all may thus be expected to move us continuously forward in the ongoing struggle of humankind toward a world community of human dignity and equality. Thank you.

MS. : Thank you very much Dr. Chen for that very scholarly overview of the problems of women in the law. Dr. Chen mentioned resolution, this committee in meeting together twice became so excited about the possibilities for what could be done by the world center, that we put together three resolutions which we will introduce at some later time

but to which some of our panelists will refer. One is a resolution that the world peace through law center establish a standing committee dealing with the issues concerning women's rights and then to collect and process and disseminate data regarding the development of women, and thirdly to give particular references to matters of family planning for the benefit of women throughout the world.

Our next distinguished panelist is Emma Hill, Esquire from Jamaica. She is a graduate Hull University in England in 1968, was called to the bar in 1969, practiced in the attorney general's chambers in Dominica West Indies for two and one half years, and since 1972, has been in private practice in Jamaica and a lecturer in law at the College of Arts and Technology in Jamaica. It is an honor and a privilege to present to you, Emma Hill, Esquire.

MS. HILL: Thank you madam presiding officer. Madam honorary chairperson, madam presiding officer, ladies and gentlemen. That women are entitled to equal rights without discrimination, is now (unintelligible) at least generally accepted, internationally. As a minimum requirement of human dignity. Law, international and domestic, is an essential part of the process of implementing those rights. In the commonwealth Caribbean, of which I can speak from personal knowledge it can be fairly said that although the laws in this regard did not positively and consciously attempt, especially in this

century, to secure those rights of women, they did not consciously seek to impede them either. For many years, now, in the commonwealth Caribbean, women, on the whole, have had legally and theoretically, equal voting rights, equal access to public office in government, equal access to education, equal legal capacity, more or less equal rights in marriage, to some extent equal job opportunities, all of this under the law and in theory.

To the educated and privileged women of the commonwealth Caribbean, those rights have been there for the taking. And the reason why they have not been asserted more, or even exercised at all can be (unintelligible) attributed to a lack of awareness on the part of these women. International woman's year, and the panel's resulting out of it, like ours have together played an important part in awakening the consciousness of these women. Some of these women have asserted themselves, publicly. For example, in the past few years, they have been in the forefront of women's rights organizations throughout the world. Even in little Dominque, a very tiny, but very beautiful dot on the map, we have our own pockets of assertiveness on the part of women. For example, in 1972, about 45 to 50% of the legal profession in the island consisted of women. And a woman lawyer was an accepted part of life in Dominque. Although, for other reasons, a woman doctor was not. It just did not develop that way.

Those privileged and educated women who remain in the

background of their societies have therefore made a conscious or unconscious decision to remain there. However, the majority of women in the commonwealth Caribbean have made and can make no decision on choice. To those women, women's rights, like all other rights are things that professional women talk about on radio and TV. To them world peace through law, probably means nothing at all. For they are engaged in a daily battle for survival. A battle that leaves little, if any, room for such luxuries.

There is always too little to feed too many mouths. There's most often one mouth that the woman in this condition need not bother about feeding, that's of the father. Because all too often he's completely absent or, if present, makes little or no significant contribution. His absence is, indeed, cold comfort and, indeed accounts for a large amount of the heaviness of the burden placed upon the woman.

Illiterate and untrained, even for the basic duty of parenthood, it is her task to see to it that the children are kept healthy enough to try to escape from their poverty to join the ranks of the fortunate and the privileged. These are societies where it is not uncommon for a young girl to become a mother at 13 and add one more to an already overcrowded single room that serves as home.

This untrained, young girl can often see no other means of supporting herself and her charge than to find her-

self another man to support her, her child and his own children. She lacks basic family planning knowledge and so the amount of children and often the amount of fathers increase and there is nothing that she knows that she can do to stop it.

One of her hopes is that her children will provide for her in her old age and this is about all that she can often look forward to. There are thousands of such women in the Caribbean. Some slightly better off, some worse. The woman's basic rights exist, but that sole breadwinner overburdened by poverty and illiteracy and far too many children lacks the capacity to grasp them. Assuming that she's even aware that her rights exist. Her lot, therefore, must be improved and must be improved now.

This is of course, more a question of economics and social justice than (unintelligible). But, it is the infra-structure without which the law is meaningless and useless. This kind of situation exists not only in the commonwealth Caribbean, but to some extent and to some variation in all developing countries of the world. Some steps are already being taken to enable women in this position to break those bonds and to keep their present children out of them. But they are not enough.

For example, in Jamaica, we have ongoing, right at this moment, a quite extensive literacy and family education program, but a lot more requires to be done. So what is going

on now is not enough and more help is needed. It is very important to stress that our words will not reach these women, but our deeds will.

Women now overburdened in the way that I have described, need proper care facilities and schools for their children, they need proper family planning material, they need training to assume their traditional women's roles much less for non-traditional ones. The woman needs to be assured that while she receives this training that her children do not suffer and become even more deprived than they already are.

The woman needs the support of the man. She needs him to assume his role as a father. She must be made literate so that she can read instructions on a bottle of medicine. The instructions on birth control device, the instructions on a bag of fertilizer. Her children need help, too, now so that they, even those who do get into school do not leave it at 13, illiterate or semi-illiterate to go and have a baby.

Although this conference and this center is basically concerned with law, it must also be concerned to see to it that the law it advocates can become a reality to those who really need it. It cannot be content to simply propose and disseminate the laws without regard to whether the laws can operate in proper conditions to see to it that the rights of the advocates are ever fulfilled. It is for this reason that I call upon the center, through the proposed standing committee

on women's rights, not merely to give women rights, but also to give them the power to exercise those rights. And so, side by side if encouraging laws to that effect, I call upon them to take part in the establishment of the conditions essential to the exercise of those rights themselves, by disseminating programs that will reach not only people like us, but the poor and the illiterate, programs that will help eradicate illiteracy, encourage women to plan their families or to have none at all, if they wish, programs that will at the same time instill in all of our women the consciousness and awareness of their rights as women of their individual countries and as women of the world. Thank you.

MS. : Thank you very much, Emma Hill, a most distinguished advocate of equality for men and women. I'm very envious of the percentage of women lawyers in Jamaica 45% as compared to approximately 4% in our own country. You indeed are very advanced and I shall remind my countryman of that fact.

The next very distinguished is Maria Louisa B. Fooster, Esquire, of Puerto Rico. A graduate of the law school of the University of Puerto Rico, served as law clerk for the presiding judge at the supreme court of Puerto Rico, was in private practice for five years, is a registrar of property, special assistant to the secretary of the justice of Puerto Rico in mortgage law reform and president elect of the Zonta

of San Juan an affiliate of Wonta, International, a woman's organization of executives, a non-governmental organization recognized by the United Nations. Maria Fooster is the author of an outstanding article on the rights of women which she has produced for us in Spanish and, unfortunately, the staff of the center was unable to have it translated and reproduced for the benefit of those of us who do not read Spanish. I believe it was going to be available in Spanish before the end of the conference and then will be later reproduced. But we are most grateful for the preparation of this paper and those of us who continue to do scholarly work in the field of women's rights, I know will find it of great value.

It is a great honor to present, to you at this time, Maria Louisa B. Fooster, Esquire, of Puerto Rico.

MS. FOOSTER: Honorary chairman, Mr. (unintelligible). Panelists and speakers for this working session, distinguished colleagues from all parts of the world. First of all I may say it is a great pleasure and a privilege for me to participate in the discussion of the matter of the concern of not only of all the women of this world but of all men as well.

I sincerely appreciate the attendance of all of you and your cooperation and help that you may give us, the discussion that will follow. I have no doubt I hope the discussions and resolutions to come out from this working session will result in a clear understanding of the problem of discrimination

against women and that you will come to find the means to its elimination considering the recommendations give by the United Nations declaration and the draft convention on the elimination of discrimination against women.

And now, my colleagues, since I come from a Spanish speaking country, the commonwealth of Puerto Rico, please permit me to address you in my vernacular language.

(this portion of the proceedings commenced in Spanish, and a translator was used.)

Distinguished colleagues of the world, I would like to speak about the problem of the Puerto Rican woman in this limited of 15 minutes. Puerto Rico, of course, is celebrating this year as the international woman's year, and we have the goals of development and peace as a part of the activities of the international woman's year, our governor just proclaimed the commission for the improvement for the lot of women and furthermore there have been several laws enacted regarding all women of Puerto Rico dealing with the different spheres of activity of our country and our society. We are trying to use all means possible to eliminate discrimination against women.

As an article two it is very important to impress upon governments also non-governmental organizations and on individuals, the importance of doing everything possible to promulgate the application of the principles contained in this

declaration. We must cooperate in the education, with regard to public opinion to eliminate prejudices, and discriminatory practices which are based on this idea of the inferior position of the woman. The declaration further goes on to say that it's necessary to guarantee the rights, the principle of equality of man and women.

The right of equality of the woman in Puerto Rico has been covered by these declarations. This human endeavor is incorporated in the constitution of the free state of Puerto Rico in article two there is the charter of rights, it says the dignity of the human being is inviolable all persons are equal under the law and that there can be no discrimination on the basis of race, color, sex, birth origin, social condition or religious preference. In 1952, our assembly promulgated -- accepted the declaration of human rights of the United Nations. This contains the guarantee of equality and the fact that there can be no discrimination on the basis of sex, it has been accepted, as you know, in most countries of the world.

Nevertheless, there are even more provisions to name some of them, some of these provisions do establish certain provisions which do, in fact, discriminate against women and this, despite the fact that constitutionally equality is guaranteed. These perhaps constitute a barrier to the full recognition of the equality of the woman. These laws should be perhaps amended by laws which would provide the implementation

of the full provision for equality of the woman. The rights of the family, as well. Also, we're dealing with various family matters as they relate to the legal framework. Our legislative assembly feels that the commission for the improvement for the rights of woman should provide a more effective legal framework in which these rights can be implemented and we have a series of projects which are all destined to eliminate all of this discriminatory activity with regard to sex.

The explanation of all these projects regarding marriage, divorce, family, etc., defense of the rights of the woman, explanation of all these projects is included in this document, unfortunately, due to the limit of time, I can't go any further into the content of this document, but if you wish to study it, you can. There are also other areas of law which are important, such as protection of the working mother. This list of projects that I have incorporated in my work gives us an idea, a clear idea of the very significant work which remains to be done, so as to implement this recognition of the rights of the woman, her equality, however, with regard to what has been done, already, I would like to say that there has been considerable progress made in Puerto Rico, but more work should be done in Puerto Rico as in other parts of the world.

We -- putting into practice of equality is a labor which takes a lot of time, it's a labor to be undertaken by men as well as by women. It's difficult due to several barriers

education, historical reasons, imaginary problems in history, there are lots of reasons, they're traditions, they're customs which have relegated the woman to a role which relates to her procreating activities to bringing up children, to serving her husband. Those occupations, which according to man are more suited to the woman have been, in fact a certain barrier to the woman to taking up other professions, such as that of secretary, lawyer and so on.

I would like to speak about the right of equality again, here, we should point out the study carried out by the commission of civil rights of Puerto Rico, published in 1972, on the equality of rights and opportunities for the woman in Puerto Rico. This study revealed that the woman does encounter discrimination, the woman who is in the house and who is working, there are many discriminatory practices. When the woman participates actively in political, cultural and social activities, this participation is always on a rather inferior level, in the public sector as well as the private sector.

The woman cannot ascend, easily, to the higher levels of social structures or of professional structures. Discriminatory practices against women are also manifested in the difference in salaries. This study clearly reveals the need to promote the implementation of the equality of the woman. Puerto which is developed considerably, has many of the problems of other areas of the world, but the lot of the woman, when we're

speaking of the conventions of the United Nations, and so on, the woman has not been able to realize all of her rights as they are on paper. In the nineteenth century woman contributed to history, but we see very few names of women. The emancipation of the woman in conjunction with the movement for women's liberation, which began in the United States in 1948, it didn't arrive in Puerto Rico until much later. Nevertheless, for the woman in Puerto Rico there are many, many problems. For the woman as well as for the man in Puerto Rico, she has had to re-evaluate her position and construct her potential on that basis.

Women constitute half the population of the world, in Puerto Rico, women constitute more than half the population. We have incorporated in our constitution the right -- the right to be equal. Discriminatory practices should be ended and there should be a constitutional guarantee. In Puerto Rico there are guarantees to implement these rights. The commission of civil rights and the commission for improving the lot of the woman, are involved in this area.

I have mentioned more activities of these two groups in my work, in my study. I would like to point out certain organizations -- certain programs, in effect, programs which will provide for the investigation, participation with regard to the working woman, with regard to voting practices, legislation, further, would provide for public assistance to stay

discriminatory practices, would provide for feminine representation in the political areas, there would be educational campaigns to educate Puerto Rican women with respect to their rights. The program is a large one, the commission has elaborated a considerable program to provide for the equality in practice of the woman in Puerto Rico. Before concluding, I would like to mention that the Puerto Rican woman is looking to defend her rights of equality and she is trying to obtain it without destroying the family structure. She's trying to do it without damaging the family structure, the development of society, the happiness of the woman and the man in Puerto Rico. Thank you very much.

MS. : Muchas gracias, Maria, since I do not speak Spanish, Maria, I wonder if you would repeat for the audience the title of your paper on the rights of women. This is the paper that is available, I believe, in Spanish at this time and will be later available in English. Maria, would you give the title of your paper?

MS: FOOSTER: (speaks in Spanish and English interpretation follows:)

The title in Spanish is "The Principle of Equality of the Human Being in the Free State of Puerto Rico With Respect to the Woman."

MS. : Our next distinguished speaker is Rachel Manja, of -- Esquire -- of Uganda. As I mentioned

earlier, Rachel wrote the paper which was one of the working papers for this panel. The paper is entitled, "The Socio-Legal Status of Women in Sub-Saharan Africa." I should mention that those of you who arrived just recently who may not be familiar with the rules of the conference, if, after the panelists have presented their talks, you wish to participate in the discussion, you should write your name, your country and the topic upon you wish to speak and present it to me at the podium. I will call upon you in the order received. With the one exception that I will call upon someone from a country not yet represented in the discussion first.

To continue, Rachel Manja was graduated from Makari University, Uganda, in 1972. She has since been a graduate student at the Harvard Law School and has received her masters degree in Law. She is particularly interested in law and development at both the national and the international levels. It is a great honor and privilege to present to you, now, Rachel Manja, Esquire, of Uganda.

MS. MANJA: Thank you presiding chairperson, honorary chairperson, my fellow participants, ladies and gentlemen. With your permission, presiding chairperson, I would like to point out that a lot of us have prepared papers in references to particular places in the world, but that does not mean that we have limited our ideas to those particular areas. What we are concerned with is a universal problem of women all over.

But, if we indulge in abstract norms, discussion of legal norms it won't be as effective and meaningful to the various women all over the world who may have particular problems, depending on their particular societies. Because of that reason, my paper is particularly restricted to problems of women in Africa, but as I gather from the participants before me, and from other ladies I've talked, the problem is almost the same.

The speakers that have talked before me, have talked about the various United Nations instruments that outline and outlaw sex based discrimination. A definition of discrimination against women was outlined in the draft convention, that has been referred to by the first speaker. I will, therefore, not repeat it. What I'm going to concern myself with is the thought that this year as the UN, United Nations prescribed it as international woman's year we, as lawyers, have a role to play toward enabling women all over the world to realize their rights. Women, generally, have suffered from the inequality of opportunity based on sex and this discrimination has been found to be rooted in the various customary laws, cultural norms, whatever you may call it and what I'm concerned with is how we, as lawyers, can help the various people -- the various societies to change this attitude.

Many times you hear women being asked about their roles and they seem to be very proud about them as cultured women. It's my culture that I'm like this, it's my culture

that I have to be all the time in the kitchen, I have to do this. And, I think we, as women, have for a long time perpetuated our inferior status and this year has helped to highlight the problem and to impose on us a burden to try and change our own situation. What I have found in my research is that a lot of women are uneducated or semi-literate and because of that their participation in development in cultural organizations, in professional organization, in schools, at work, is very limited. A lot of times you need educational qualifications to get into activities.

And a lot of women don't have such education. And because of this, I'm particularly concerned that we, as lawyers, should try and guarantee opportunities for women. A lot of women that have dropped out of elementary schools either because they are pregnant or because the countries don't provide free education, and when a family is faced with a choice as to who should go to school or to matriculate, the boy is favored.

What can we do to change this situation? The lawyers in many of the countries, especially the developing countries are in the policy deciding positions that what we can do is you can start with the legislation. Most of the constitutions provide for equal treatment of men and women and, yet, you find that legislation still abounds which is still discriminatory of women. For example, in divorce, you find that in many countries, the man is required to present one offense and women

are required to present more than one offense. And, this situation persists despite the fact that constitutions outlaw any discrimination based on sex. And the laws that are still in existence, unfortunately, have been drafted by lawyers and the constitutions have been drafted by lawyers too, so the lawyers are aware that the constitutions outlaw discrimination based on sex and yet they continue to draft laws that are discriminatory against women.

Maybe what we can start with is to revise national laws and insure that this disparity between the constitutions and legislation does not continue. Once that is done then we'll have an equal basis to start working on women's rights.

The second point that has been already mentioned, is the fact that a lot of women are unaware of their rights. This is particularly so in developing countries and I am concerned as to how we can sit here and talk about laws and draft grandiose instruments when the masses of people who are going to be affected by these various instruments don't even know of their existence or if they do, they don't know what is contained in those instruments. Perhaps, what we can do is to embark on some kind of dissemination of legislation and instruments that provide for women's rights.

Perhaps, national law associations instead of only being concerned about the conduct of lawyers in their own countries should take more interest in the problems of women and,

indeed, people in their country and try and publicize the laws try and tell the people what their rights are so that these laws and the legal system may be of meaning to the vast people in their countries.

Once there has been a dissemination of laws and information regarding women's rights, then we can start talking about realization of these rights. Perhaps we can embark on setting up committees, commissions, both at national level and international level to try and embark on some form of program that will enable women to participate in their national development and help them realize that they're capable of doing what men are capable of doing.

I have found that in many times women have been kept in the background because they feel that they're not capable themselves and this fear derives from the customary attitude by society, various societies, both in Africa and in other parts of the world where the woman has been told by the parents right from the beginning that she is not capable or if she is she's not as important as the man is. The man should always take a superior role. This kind of attitude continues to be perpetuated through the customary systems. And it's unfortunate that you find that where legislation, modern legislation, is being introduced to deal with this kind of inequality, it refers to customary norms. I fail to understand how legislation can try and help the woman realize her rights when, at the

same time it refers to customary norms that are by their very nature, discriminatory of the woman. So, at this conference I would like to propose that while the problem of discrimination against women has already been discussed, while the problem has been realized as the deprivation of women of their rights and opportunity to participate in all activities that men are participating in, at work, opportunities to go to school and to go to higher places of learning, opportunities to be members of the professions, opportunities to decide how many children they want to have, opportunities to decide when they want to get married and who they want to get married to, and all the various areas that we have heard other participants talk about.

I would like to propose that we set up some kind of a committee that would be run by the center and specially charged with responsibility of collecting legislation that is discriminatory and as so, looking into ways and programs of disseminating and helping women realize and participate in all these various areas in a more meaningful way. Thank you.

MS. : Thank you Rachel Manja for those very important remarks. Her comment on the education of women was highlighted in Mexico City. The fact that when the choice comes in a family to educate the boy or the girl, the boy is the one who is educated, and the point was made in Mexico City that all (inaudible) you would choose the girl, because the

girl is the first teacher of the children and this added to the fact that less than half the world's children now go to school, a remarkable fact, that the education of women, as a priority to that of the education of man, should be considered.

Our last speaker on the panel, a most distinguished lawyer from Mexico City, Aissa Isobel Mendoza, who obtained her law degree at the national university of Mexico in 1963. Since that date, she has practiced with the law firm of Santa Marina y Stata and she is now with Industrios Pinales law department. She was an observer at the world conference of the international woman's year held in Mexico City in June of 1975, and, I might add, our very wonderful hostess at that event. It is an honor and a privilege to present to you now, Aissa Isobel Mendoza, Requite of Mexico.

MS. MENDOZA: Gracias (the proceedings commenced in Spanish and a translator was used.)

Distinguished colleagues, panelists, ladies and gentlemen, I am going to speak in Spanish, my native language. As you know, the United Nations claimed - proclaimed the year 1975, the national woman's year and the object is to promote the equality, development of peace. The most important event of the international woman's year was the conference of international woman's year which took place in Mexico City in June and July of this year. This conference had two goals, the following. First of all to examine by what means United Nations

organizations have applied the recommendations to eliminate discrimination against women, made by the social and judicial commission of women since its creation. And, secondly, to initiate a world action program with long term and short term means to do away with discrimination against women, and to provide for further development and to eliminate all discrimination based on sex and to provide for greater participation of women in the promulgation of world peace.

In accordance with these goals, the international woman's conference finally promulgated a document called general information on the international woman's year conference. In this document there is a series of rights and principles which aid the position of the women as well as a list of obligations, responsibilities that governmental and non-governmental organizations, national organizations, international organizations should fulfill to improve the lot of the woman in all aspects.

Through the international woman's year conference, for the first time in the history of humanity a woman took conscious on a global level of her condition and of her own problems, and in that light I would like to mention certain of these rights and principles. The first part of this document is called the declaration in Mexico we mention the following. First of all the equality between men and women signifies equality in dignity as human beings, in addition to

equality in rights and responsibilities. First paragraph, number five says, the woman and women and men have of equal responsibilities within the family and within society. First paragraph, number seven which says we energetically reaffirm the right of the woman to work, to receive an equal salary for equal work, to take advantage of conditions and opportunities which are equal, to progress in her work and to carry out an activity which is satisfactory to her as a human being.

And number 12 which says every individual has the right to decide, freely, if they will have children and how many children and how much difference there will be between the ages of the children and to take measures not to have children, if they wish. The second part is called the global action plan. We mention the following. Number 125 which says, so that the woman has equal rights, opportunities and responsibilities and so that she can contribute equally with man in the development progress. The traditional roles attributed to man and woman within the family must be regularly reexamined and re-evaluated in the light of the changing conditions.

Number 127, which says, the rights of the woman in all the different types of families even in its most restricted sense, there must be protection through law which should be significant. And 130 says there should be legislative means as well as other means to guarantee that both spouses have full judicial rights with regard to their personal and property

rights including the right to administrate -- to acquire and administrate and dispose of goods. And 136, number 136, these guarantees must provide for a non-discrimination based on sex, there must be equal rights of -- for man and woman. And 158 which says one of the principle objectives of the action plan consists in providing for the woman in principle and in practice, the same opportunities as men, to participate in political life at a national, local and state level. And the woman must be made aware of her responsibility as a citizen and she must be made aware of the problems which affect her and her society.

Now, number 159, which says participation in political life supposes participation of the woman as a voter as a member of a political party or a union. Activities, various activities, including the judicial branch. And then, there should be concrete acts to provide for a significant number of qualified women to occupy technical and specialized positions and number 99, there should be special means taken to increase the number of women who hold administrative positions, political positions, industrial and business positions.

Number 102, which says there should be protective legislation for women in the light of scientific and technological knowledge. There should be protection of the working woman. And number 103, there should be minimum salaries for the woman and improvement of working conditions and there should

be applied both to industry and to domestic work.

With regard to the obligations contained in the document, obligations which should be carried out by governmental and non-governmental organizations, international and national organizations, I would like to mention the following. Number 38, government should examine the legislation affecting the judicial and social position of women in the light of principles regarding human dignity and national -- international norms. If necessary, there should be promulgated, legislative norms necessary to provide for the practice -- practically as well as the theoretical and pertinent means should be adapted so that women can be appraised of their rights, as well as other assistance that need be obtained.

Governments should set for themselves, goals, so as to implement between 1975 and 1985, regulations which would provide for more women in high positions and governments should formulate policies and action programs which would provide for the equality of opportunity for working women and should guarantee for equal salaries, equal pay for equal work. Should include legislation stipulating the principle of non-discrimination on the basis of sex or civil status, should contain mechanisms for appeal procedures and so on. Governments, employers and unions should inform all women workers of their rights with regard to maternity, should provide for leave for pregnancy and similar matters. Within the context of general medical facili-

ties, special attention to be given to the special needs of women with regard to childbirth, from beginning to end. We should adopt legislative and other means to guarantee that the opinions and needs of women are taken into account in the planning of the society on a local level. The United Nations should proclaim the decade of 1975 to 1985, the international woman's decade with the objective of guaranteeing during that whole time that the global action continues.

The world action plan would require that importance and priority be given to the means to improve the lot of the woman. The international organizations should analyze the consequences of the world plan with a context of its own programs and make pertinent recommendations to its own organizations with regard to any divergency and with regard to financial and administrative means.

The international organizations, governmental as well as non-governmental, should double its efforts to deal with matters pertaining to the woman. As a consequence of the rights and responsibilities that I've just mentioned, I would like to, on a personal basis, make the following proposal. Whereas the world action plan requires cooperation between non-governmental organizations such as international peace through law and taking into account the enormous prestige of the world peace through law organization, and appreciating the efforts made by the world peace through law organization,

whereas, the world peace through law groups together many brilliant lawyers in aiding women throughout the world to be aware of their rights, I would make the following proposal. At the international peace through law group distribute throughout the world a declaration of the basic rights of women in which we speak of the natural rights of women and in this declaration of basic rights of women, we should recognize the woman's specific physiological role. Thank you very much.

MS. : Muchas gracias, Aissa Mendoza. You made some very important recommendations and now we will have a chance for the audience to participate with us in discussing some of the issues raised by the panelists. I have been asked by the world peace through law center to announce to you and to remind you of the luncheon this noon. Tickets are still available, we are honored to have the honorable Melvie Sapilla assistant secretary general of the United Nations, and secretary general of international woman's year, as the speaker.

As I announced earlier, President Ford will be receiving the delegates to this conference at the White House at 3:00 o'clock today, we will adjourn this meeting at 11:50 so that you may all attend the luncheon and the luncheon will conclude, promptly, so that you may all then go to the White House to be received by President Ford.

At one point, now, I should tell you that the committees -- the panelists have three resolutions to present but we

would wish to hear from the audience, first. I'd like to call upon, now, Dr. -- forgive my pronunciation -- Gulager Thordartson, doctor in international law for the Sorbonne, who is presently advocate to the supreme court of Iceland.

DR. THORDARTSON: Chairman, ladies and gentlemen, I come from a country in the north of Europe on the polar circle that was settled 1,100 years ago. That settlement is recorded and we know the birth of a nation as well yours (unintelligible) but ours is better recorded. It tells about women were group leaders of the settlers of the even rights of women born without United Nation and I am proud to tell you that in Iceland women have enjoyed more rights than any other country through the centuries of the world.

A token of this is that women keep their names though they marry. They are still the daughters of their fathers. And in Iceland, through centuries, we have looked upon women as a major factor of society at the side of man. Iceland was the first nation of the world to grant the women the rights to vote in the middle of -- the end of the last century and we were second only to the Finns, that was through the municipalities, to grant them the rights to vote to the parliament.

Iceland has the lowest criminality of the world and has no army. And, in Iceland, as in the entire world, the women are the more obedient citizen. There does not exist any (unintelligible) for women in Iceland. I think you must bring

them to the hotels if you're going to keep them inside. And Iceland we have women to participate in the parliament, since 1915, in the law giving. In 1885 it was made a bill that women should have the rights to vote to parliament, but we were then at the throne of Denmark and this set to alter the constitution and the deputy of the king, said this would not be accepted. But we think about the women's rights we must not forget the obligations the duties of women. I have sometimes met clever, intelligent women boasting of having refused to take the nomination as a candidate in the campaign to the parliament also the municipalities. I think to boast of such a thing is a token of inferiority complex and a token of misunderstanding.

Cicero says somewhere, if I quote it rightly, "to refuse to take part in politics you indenture that more unintelligent man than yourself." And, this duty of women to participate in society is unlikely to be made unless it's made through law. Oscar Wilde says somewhere in Lady Windemere's Fan, "women become like their mothers, that is their tragedy, men never do, that is theirs." And, we must think of that in society there are two main bodies, or more, three, the government, the supreme court and the parliament. You must think of that men will want to keep their role, they don't want to allow the women to take their seats. I think, if you throw out

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P R O C E E D I N G S

MR. : Women and men posed in the fight for the power of parliament and in the superior courts (unintelligible) in certain courts are on even levels. Thank you.

(Applause)

MS. : Our next speaker is Emma De' Fernando of the Philippines.

MS. : Could I put this down?

MR. : Is that enough?

MS. : Yes.

MR. : Too much?

MS. : Thank you. I am Emma De' Fernando from the Philippines. Before I ask a question from the panel, may I say a few remarks about -- about the status of Filipino women in the Philippines? Philippine historians say that before the advent of the Spaniards, women in the Philippines enjoyed equal rights with men. Daughters could succeed to the headship of the Balanguy (PHONETIC) and could become priestesses.

The Filipino legend on the origin of women -- of the human race, unlike the Biblical version of Eve coming from Adam's rib, has men and women simultaneously emerging from a huge bamboo. But the colonizers, both Spanish and American, introduced their laws which cumulatively relegated women, particularly the married ones, to a subordinate

position.

In the Philippines, the existence of an equal treatment is not readily evident. It is pointed out that in the Filipino family, the wife holds the purse. Husbands hand over their paychecks and get an allowance in return and the wife manages the activities of the household.

The high position of woman in Philippine society and her activities in government service, in business, and in politics are also cited. Indeed, the remark attributed to an American Governor General is often repeated: "In the Philippines, the best man is the woman."

There have been giant strides taken of late, particularly by our 1973 constitution which has assured equal rights to women. But between the letter of the law and actual practice, there is a wide gap.

My question is this, what measures would you suggest to bridge the gap between actual practice and the letter of the law? Thank you.

(applause)

MS. : The question is what measures would you suggest to bridge the gap between the actual letter of the law and the custom and practice? If I may, our committee discussed this at length and we are prepared with the resolution to suggest to the World Peace Through Law Center that they collect, process, and disseminate all laws concerning

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the status and rights of women to the men and women of the world.

I will now, though, ask our panelists if any wishes to speak on this. Would any of you wish to answer in addition? Please. I will call upon Maria Huster.

MS. : (In Spanish.)

MS. : (In translation:) I would like to mention the way that we are dealing with the problem in Puerto Rico to try to put into practice what we have in theory. Of course, I would mention that we have a lot of work to do. Then in Puerto Rico there are two organizations -- the Commission of Civil Rights and specifically, a commission created in 1973 in the light of this feminist movement -- commission for the improvement of the -- in the lot of women.

And in this ambitious program proposed by that commission there's a series of means, laws, control, implementation of those laws, measures regarding cooperation between feminist movements -- all organizations dealing with the lot of women.

And I think you have to have laws, seminars, all -- use all sorts of education to initiate the change. But there's no doubt that the change will be slow.

MS. : Dr. Chin?

MR. : I would like to add a few words. Of course the question of how to implement prescriptive norms

into a controlling practice is of fundamental importance. And this in large measure you depend upon to what extent the human rights in general will be protected on the global scale by the national communities. And that is to say the whole process of how international law for the protection of human rights is made and is implemented -- will be of fundamental relevance.

But this will require, of course, the concerted efforts on the part of a government and nongovernmental individuals and organizations alike. On the part of government, it's important to put all those very pious aspirations and rhetoric expressed in these human rights conventions into controlling practice in their policies and so forth.

On the part of the individuals and groups, it's important that every effort is made to achieve that goal. That would involve the range of activities including education, which will be of fundamental importance to change people's perspectives how we are going to change our views about the roles of men and women, how to make the roles of women and men more changeable -- interchangeable. And in such a concerted effort on the part of government and nongovernmental sectors, hopefully we may move a step toward a large protection for women and for that matter, for men. And this doesn't present a very unique problem in that sense.

MS. : Thank you. May I -- oh, I'm sorry.
Rachel, did you wish to respond?

MS. : I wanted to say this, that -- I
wanted to suggest that probably national training programs
could be carried out whereby women could be educated in less
developed countries, given more chances of education and
then in the more developed areas, training programs to make
sure that women realize the various rights that they have
are carried out.

MS. : Thank you, Rachel. I would like to
plead for the assistance of the audience. I have over twenty
people who wish to speak. We will try to get to everyone
who has indicated they desire to speak and we will only suc-
ceed if we all confine our remarks and make them as brief as
possible.

I know that the World Center associates and the
World Center staff would be delighted to receive statements
from anyone to include in a final report. And so, I would
ask the audience to make a specific point or to direct a
specific question to member -- a member or members of the
panel.

Our next participant is Sie Chee Lee (PHONETIC),
Justice of the Supreme Court, Republic of China.

(applause)

MR. : Madam Chairman, distinguished panel-

ists, dear fellow colleagues, first of all, I thank you for giving me a few minutes to speak here. As we are shoulder by shoulder, walking together in the task of the promotion and encouragement mission of the -- between the men and the woman, I suppose any information and material attending in these fields will be accepted here.

We, as the participant coming from the Republic of China, are proud to let you know, as a result of long effort in the movement of women's liberation know this, the Republic of China has developed and perfected legislature in the protection of women's rights.

Instead of real introduction of that which may take you a long time, with your permission, may I submit and distribute a little pamphlet about a article called of the protection in Chinese -- the protection of women rights in Chinese law. Written by the Chief Justice Chin of the Republic of China.

I hope it will be little useful for reference to us in all research work and the work of preparing the draft of revolution for other documents (PHONETIC) -- documents.

Thank you.

(applause)

MS. : Thank you very much. Yes?

MS. : (INAUDIBLE.)

MS. : We would like to receive -- yes.

MR. : Yes. Thank you very much.

MS. : We would be very pleased to receive it. Thank you very much. Dr. Elsie Austin, a lawyer from the United States of America.

MS. : Thank you, Madam Chairman. Given the fact that the men and women of this period have both an opportunity and responsibility to initiate new law on the world basis, the national basis, and on the customary basis which can be the foundation of new traditions and standards reflecting equality of opportunity and responsibility for women, I would like to ask the panel members for comments within their experience and suggestions as to how: one, we can mobilize educational institutions both formal and informal to push for new training and new concepts with regard to the equality of opportunity and responsibility of women.

You notice that I have said both men and women. The second question is that we -- I would like to ask them for comments, for specific suggestions on ways in which the men and women at the mass levels and in rural areas can be helped to initiate new standards and new traditions and a concept of new customary law with regard to the equality of opportunity and responsibility for women.

MS. : Thank you, Dr. Austin. We have two questions. One, what are specific ways in which women can get educational institutions to help initiate new standards,

traditions, and customs which express the idea of equality of men and women. Do I have any volunteers from the -- yes, Rachel?

MS. : I think (unintelligible) there have been many times when programs have differentiated based on sex. Like you find that girls are encouraged to join traditionally girls' programs. If that kind of differentiation can be done away with, can be eliminated and programs arranged so that everybody, every child can participate in the same programs and educational facilities are used towards the same goal for every individual, I think schools can help in bringing about equality of the sexes.

MS. : Thank you. Excuse me, Rachel, please continue. I didn't mean to interrupt you. Anyone else like to comment on the first question? If I may be permitted, Title 9 of one of our own federal laws now prohibits discrimination in education for all schools receiving any kind of federal aid to education. And this covers all of our public schools, as well as 2,500 private schools now receiving federal aid to education. So in the United States we're making a step forward in this respect.

I will go on to the second question in which I -- correct me if I'm wrong -- what are specific ways in which men and women in rural areas can be helped to have a new equality in interest about themselves? Is that correct?

MS. : Yes. I used the words "mind set".

MS. : Mind set. What are the specific ways in which men and women in rural areas can be helped to have a new equality mind set about themselves? Is there anyone on the panel who would like to comment? Yes, Lisa.

MS. : (In Spanish.)

MS. : (In translation:) I think that some women have a better preparation than others and I think it's a very important responsibility of the woman who is well educated to organize herself and help other women. So that, they become conscious of their situation and their rights. And I think that in this way we could change the mentality

I think that it's very important that women take an active role. I think they shouldn't wait to be helped. I think they should take an active role.

(applause)

MS. : Thank you. Yes, Emma Hill?

MS. : In rural areas, in my experience, which is the Caribbean, the problem is rather to give women -- to make men equal with women because the woman assumes sometimes all the responsibility. Not only does she rear the children and is charged with educating them, but she also does the farming and all the heavy work. And it's often a problem of educating the man to assume a greater role so that the woman can be freed to, if she chooses, to assume

nontraditional roles and to do an even better job of the things that she already does because of the wide nature of the task that she has.

It inevitably happens that somethings suffer and usually the children. And so in rural areas, in my experience, one important way is to work on the man. To make him assume his role. To help. To get equal with the woman in the responsibilities in their areas.

(applause)

MS. : Thank you. I want to explain that the next person in order was also from the United States of America and because of our rules, we must go on the recognize participants from other countries first. And so I apologize and I want the questioner to understand.

We now will call upon Julia F. Gibson, Counselor at Law, Monrovia, Liberia.

(applause)

MS. : Thank you, Madam Chairman. I come from Liberia which is a very unique country. Eventhough Liberia is south of the Sahara in Africa where -- south of the Sahara where our honorary chairman is from and where Rachel is from -- we find ourselves there in the peculiar situation.

When I say "we" I refer to the women in Liberia. We have the situation which Emma, from the -- from Jamaica --

has described where the responsibilities of caring the home and so forth are all placed on the shoulders of women. And this is because there are two categories of women in Liberia.

One category is that of the urban woman who has every right, every legislation that you can think of written in beautiful language, in her favor with regards to her legal rights -- all there.

Then you have the other situation of the indigenous woman who is still being paid (unintelligible). Her situation is that a man, be he a chief or otherwise, is permitted under the customary law, to own anywhere between one to 100 or 1,000 wives. And these women are almost like slaves because they are the ones who till the soil, make the farms, and so forth.

Those women in that category who migrate to the urban area are the ones who are called the market women and they hold the price strings.

My recommendation here today is that any resolution that is passed by this committee should please try to include one man for one wife. Thank you.

(applause)

MS. : Thank you. As a matter of fact, that was not included in any of our resolutions. And it might be just appropriate at this time -- I don't anticipate great debate on this. I may be wrong. May I ask Julia Gibson if

she would like to put this in the form of a proposed resolution?

MS. : (Inaudible).

MS. : The proposed resolution would be that perhaps we could include it in one -- urge the World Center to propose to all appropriate bodies, including the United Nations that in recognition of the principle of equality of men and women that we affirm the principle of one -- one -- well, let's see --

(laughter)

-- of monogamy in marriage. Would that satisfy it? I assume from the general support in the audience that we have a second to that motion. And in the interest of time, I would simply ask is there anyone who wishes to speak against that proposed resolution?

Then all those in favor, please say "aye".

(Chorus of "ayes".)

Against?

(Chorus of "No".)

Excuse me. I guess to be stricter about this, all of those who are delegates to the conference, would you raise your hands if you are in favor of the proposed resolution? Would you raise your hands if you are against the proposed resolution? All right, it passes.

MS. : (Inaudible.)

MS. : We now -- Professor E. A. Lang from Belize.

MR. : From Belize -- B-e-l-i-z-e -- in Central America. I can't get this thing up. I need a woman -- or a man. My remarks have to do with law, although I'd like to speak about politics as well. I'll probably end up talking about politics very, very briefly.

I'm first of all a little bit disturbed about the fact that your first speaker was a man. Very disturbed about it, in fact. You lead speaker so to speak -- I believe he was. I came in late and he was listed as the first to speak.

MS. : Well, our very chairman and then the presiding chairman both had opportunities to give introductory remarks.

MR. : Yes, precisely. In fact, I would be -- I might be a little bit bothered about the fact that the man is on there at all. But that's neither here nor there. I would like to say one thing. I'm going to restrict my remarks, as I said primarily to law and legal concepts since I believe this is a law concept -- law conference and I am an a lawyer.

It is my belief that any body of legislation or other law in most of the countries, if not all of the countries from which all of us are from, is capable -- any body of law -- constitutional, legislative, judiciart, or other-

wise is capable of giving to women full rights, whatever rights they require; whatever rights they deserve.

And I believe that the preoccupation of some of your speakers, particularly the male speaker -- professor from Yale -- was discussing the developing juris prudence -- if you can call it "juris prudence" in the United Nations -- might be a little bit uncalled for.

I believe that within any body of law, as I suggested, there is the roots -- there is the making of significant benefits for women and our main problem really is to translate legal norms into reality -- a point made by several of our speakers.

And I think the problem which we need to face is to try and get women to obtain positions of significant power within the legal system of all our societies. Particularly in terms of the power to make judicial decisions.

I think if we were to politicize the decision making function and try and get women in positions of responsibility as judges in our societies, we might get very far towards solving the problem which we have.

And set of legal norms, as I said, can be used for any purpose whatsoever. And therefore I deplore, a little bit or are concerned about our drafting United Nations resolutions, passing conventions and so on, which I believe are rather sterile in their nature.

And finally, I'm a little bit troubled too about something which Professor Yang, I think his name is, had to say. I believe he does belong to the school of Yale policy oriented jurists which speak about the law of human dignity -- a very, very good concept in so far as its articulation is concerned. But in its application, I believe some rather odd things have happened and can happen. So I'd like to -- I'd like to dissociate myself with policy oriented jurisprudence and jurisprudential concepts. Although, of course, I respect everything he says otherwise.

Thank you.

(applause)

MS. : Professor. Yes. In deference to Dr. Chen, I should say that he was asked by the planners of this conference to give a jurisprudential overview of the laws concerning the status of women. So it was not his choice to choose that particular subject. I will now let Dr. Chen respond.

MR. : Of course, I have one basic objection. We should have more men on the panel. I'm a minority of one here, you know. To talk about the importance of prescriptive norm, certainly this is a basic fundamental step toward better protection of human rights for women or for any other matters. That is to say, unless you have a common standard of behavior, you see, you can't even begin to aspire to bring behavior by

nation states, by different groups and individuals to set the standard.

So this articulation of norm, including the draft convention on the elimination of discrimination against women will be of a fundamental importance. And the important thing it seems to me, with so many practicing lawyers here one very significant contribution practicing lawyers can make is to invoke transnational prescription, international law relating to the human rights protection for women, as often, as frequent as possible in all sort of different litigation.

It may sound as if of little consequence because of the gap between the actual behavior and the letter and spirit of law. But, on the other hand, by constant reinvoking of this relevant international prescriptions in different arenas -- these -- one built upon another will create expectations of the people of the world, both officials and nonofficials, in such a way that through time people will share and crystalize expectations for the better protection of human rights.

Any word about policy oriented approach, as a social scientist, as a lawyer, I do not believe in very free juris prudence. Law for what? You have to ask yourself what kind of the world we want we live. What kind of world we want to -- our children to live in the future and so forth. So, basically, we'd have to ask ourselves -- take a

responsible stand. Identify ourselves with the common interest of the world community, with the whole of humankind, to clarify, to postulate a set of goals of human dignity. What is important is to be very clear about our observationist standpoint and then, when you begin to talk about legal problems, to write in and employ what we call the intellectual skills in terms of the clarification of goals and what has been happening in terms of affecting the larger social world community context. And to see what has been done in the past in the promotion and protection of women's rights. What were important conditions in the past that attribute over to the state of affairs in which women were not very well protected. And what are important conditions today. And what sort of a trend is likely to develop in the future when we project into the future. What will be the important, significant factors?

And finally, we talk in terms of -- suggest alternatives. Ways of better protection, better problem solving. And in that regard it's important to integrate our basic goals, the kind of a system we want to live in relation to different problems we are dealing with and see what are important conditions. And make a different, alternative recommendations both in terms of a strategies and institutional practices and so forth.

MS. : Thank you, Dr. Chen. Anyone else on the panel wish to remark? May I call upon Louisa Ghandi --

Mrs. Louisa Ghandi, lecturer and member of the National Committee on the Status of Women in Indonesia. Would someone assist her, please, with the microphone?

MS. : I was one of the members of the delegate to the conference in Mexico and I learned there that there is a universal problem what has been -- that has been put forward from the lady from Manilla -- from the Philippines. An answer to that was not found in the conference. But I remember that the plan of action -- I mean the ten -- in the ten years plan for action it was stipulated in the chapter on education about the nonformal education to be held of recommended in rural areas and poor urban areas.

I think there is not time to read it here but I think everybody can find it in the World Plan of Action. This plan of action --

MS. : Yeah, this is -- may we refer to the booklet --

MS. : Yeah.

MS. : -- "The Law and Women", which was distributed. And the World Plan of Action, which begins on page 23. If you do not have this booklet, if you may inquire at the registration desk. It is called "The Law and Women" by Charles Ryan. Excuse me, please. Go ahead.

MS. : This was this nonformal education is already getting out in Indonesia, in rural areas, and I know

the conference that about 75 percent of the women in the world live in rural areas. And about 50 percent of those women are still illiterate and are not aware of the rights already stipulated in written laws.

So this -- these written laws are indeed a dead letter law. And in this connection, I would like to suggest to the conference that members of this conference are mainly judges and lawyers. I wonder whether this conference can make these judges and lawyers realize how important -- how an important role they can play in making this dead letter alive.

Even in code system law or like the European continental system law, a judge can make -- I mean can play a fairly important role to make a dead letter or to make a new letter not in existing -- not exist. And the moreso in judge made law system, I think. The role of judges is very important.

MS. : I comment now. Your point is very important and one which is going to be brought to the attention of those who planned the conference. We, in our panel, noted that at the time we were to meet the World Association of Judges was to meet in a different room. That the World Association of Lawyers was to meet in a different room. That the World Association of International Law Students was to meet in a different room. We would greatly like to have their

assistance and their -- we'd like to have them join with us on future occasions because then we would be able to accomplish in part what you are suggesting.

Is -- and my husband is a judge so he already knows. But there are many judges who don't recognize the importance of their role in helping to recognize the principle of the equality of men and women.

But we are going to make a suggestion to the conference for future conferences that judges be included in this session by direct invitation and not by exclusion. Would this satisfy --

MS. : Yes.

MS. : -- your desire at this point? Thank you.

MS. : And maybe we can make a written -- how do you say that -- we can drive our --

MS. : Would you like a resolution to that effect?

MS. : To those judges and lawyers -- practicing lawyers -- about -- well, to make them realize how important a role they can play for this --

MS. : Excuse me. Maybe we could resolve and send a resolution to the World Center committee that in future meetings that judges and lawyers and law students and law professors be specifically invited to discussions concern-

ing the equality of men and women, because of the major role they will play in helping to develop the recognition of this principal.

MS. : Okay.

MS. : Could we take that as a resolution?

I will consider that you have moved that resolution. Is there a second?

MS. : (Inaudible).

MS. : All right. In the interest of time,

I will ask: Is there anyone who wishes to speak against the resolution? Then, all of those in favor of the resolution please raise your hands? Against? It carries. Thank you very much. May -- did you have one more point to make?

MS. : I just want to stress what Emma Hill has said about -- to educate or to make -- well, to educate the men instead of women. And this we found also in Indonesia in the family planning programs. It doesn't care -- I mean, it has no success if you educate only the women. The man is the most important to educate. So we have to educate both. I only want to stress what she has already said, especially in rural areas in Indonesia.

MS. : Thank you very much.

MS. : Thank you very much.

(applause)

MS. : I'm afraid I'm not going to get to all

of you but we'll do that the very best we can. We have a lawyer from Ghana -- S-a-r-k-o-d-i-e. I'm afraid that I -- Sarkodie? Thank you.

MS. : I'm a (unintelligible) and I'm from Ghana. And the point I would like to make is in Ghana we don't have a single discriminatory law against women on the legislation books. And yet, you find that although there might be a few more female Ghanaian lawyers or judges than you'd find in most African countries, you'd notice that considering the absolute lack of constraints, legal constraints, that the opportunities given to women have not been fully utilized. They have not been used as much.

And I think that this problem, although it might apply more in developing countries, also apply in -- maybe to a lesser extent -- in Western countries. Women, for a long time and right now, are still being crucified on the word "feminine".

I've seen women in very responsible positions who feel that they have to compensate by being so clever, by acting extra childish, to deserve the -- to deserve being called "women".

I've noticed women who speak quite articulately, succinctly and everything, as soon as the word "feminine" come up begin to lisp and --

(laughter)

And I don't know what I can suggest. I don't know if we can make consciousness-raising, you know. We can legally ask for them or something. But, considering the history of women and how very effectively somehow women have been induced to think of themselves in a certain way so that acting in any other way makes them uncomfortable or makes them feel like freaks.

Maybe after we are through with the laws or at the same time that we are trying to get more laws, we should also insist on very practical programs or more -- what should I say? -- more cogent programs to make these things a reality, because I know that we don't have any discrimination in our law books.

And it seems as if we don't even need them if what -- if what we want to do is remain where we are. So I would appeal to the women in this audience. I know it's uncomfortable to be regarded as a freak or, you know, not so. But that's something you've got to put up with until it becomes normal. And then, everybody can be both free and normal at the same time.

Thank you.

MS. : Thank you.

(applause)

Esma?

MS. : I should just like to comment and en-

dorse what the lady from Ghana has said. I would point out that this problem of the change of the woman's attitude when she's supposed to be feminine, equally applies to the man.

We all know of the man who at the moment a woman walks into the room, puts on his masculine aura. And some -- and I don't know what we can really do practically speaking about this problem.

In the Caribbean countries, there is a very dangerous aspect to this problem especially in relation to family planning. In that the man labors on the misconception that one way to prove his masculinity is to have as many children as possible, with as many mothers as possible. And that contributes very much to the burden of women in the Caribbean. And this is something we can do about by, again, educating the man.

MS. : Thank you, Emma. May I call upon Valuca Vacelleo from Rumania? Oh, excuse me. There's an emergency call for a Mrs. Benson. Mrs. Benson, if you are here, please go to the rear of the hall. This is Valuca Vacelleo.

MS. : I'm a research fellow in international law and for the French translation yesterday, I was yesterday a student in French. I'll be happy to be, but I'm not. I will not speak about what women -- excuse me a second -- could you help me? Thank you.

I would like to share with you the experience of some guarantees for women's rights in my country, in Rumania. And I will give you some facts about those things which may be of help for the audience or just as an example for the people that need suggestions.

I mean, they were asked. One of the great gains, I think, of socialism in Rumania is the insuring of fully equal rights for masses of women in recreation of conditions for assertion of the woman's energy and creative potentiality in all fields.

And in this respect I would like to point out that in Rumania, 51 percent of the population is women -- are women.

The Rumanian Constitution expressly proclaims -- I quote -- "Rumanian citizens without any distinction where- as nationality, race, sex, or religion, have equal rights in economic, political, legal, social, and cultural domains."

I continue, "The state guarantees the equality in rights of the citizens. Any damage to those rights and any distinction as to their exercise on the ground of nationality, race, sex, or religion, are forbidden." Unquote.

I will draw your attention especially upon the paragraph dealing with the guarantees, because it is easy as many have put it here, to proclaim a right. But we, as lawyers, we know how different it is when those rights are legally

guaranteed. And I consider this paragraph of the most interesting precision in legal field.

And speaking of guarantees, I will give you a few statistical facts about the way in which those guarantees are working in practice in Rumania. And I've chosen my example in a field -- in one of the fields that's most important and most sensitive ones concerning the equality of rights for men and women -- the motherhood period, because we -- as we all know, the motherhood is one of the sensitive points. The men reproach as not being equally capable of working.

It is forbidden to lay-off, in Rumania, a woman during her pregnancy period, her breast-feeding period, or during her -- during the first four months of her newborn life.

It is -- the paragraph in one of the Rumanians' most outstanding law is a code of labor existing in Rumania. And this is in expressly -- it's a paragraph in the Code of Labor of Rumania.

Also in the field of motherhood, in the same field any -- a mother can work half-time during her child's first six years. But those years are considered full-time work for her retirement premium. It's, as you know, as an insanity -- insienite, in French.

MS. : You -- may I just suggest, this is extremely interesting and I know that we would all like to

hear. I think, in the interest of time, may I ask that you make a specific point or direct a specific question to the panel? If you would do that, I would be most grateful. And then, if you would share with us afterwards the information about your country, we'd be very happy to include it in our reports.

We have very few minutes left and so, could you direct a question or a comment to the panel, please?

MS. : Thank you.

MS. : Oh. Well, thank you very much. If you wish to -- I didn't wish to cut you off entirely, but because --

MS. : I know.

MS. : -- we have so many waiting I --

MS. : I know. I think the main examples that were illustrating the situation I was talking about already.

MS. : You are much to be admired --

MS. : Thank you.

MS. : -- in your country, in your very, very advanced laws and constitution. Thank you very much.

(applause)

We do have a judge in the room who wishes to speak and we're delighted to have him. From the Philippines, Justice Bengion -- is that correct? B-e-n-g-l-o-n? Sir?

MR. : Madam Chairman?

MS. : Yes, sir.

MR. : With all candor and honesty, I appear as a witness to state that I'm going to say what many men like myself would not dare to say. I owe my success to two women -- my mother and my wife.

(applause)

In the Philippines, you have heard here among the panelists that there is a need of a system of education for women. We have Philippines Women's University. We have several collegiate schools exclusively for women. In the political aspect of our country, we have senators -- one of them is here, Senator Segal. We have congressmen or congresswoman. We have also in the executive department, as members of the cabinet.

So it is not a myth. It is not a theory in the Philippines that women have an equal opportunity to that of men. They -- in fact, there is no position that is not open to women in the Philippines.

And if I may be permitted to say, if our president nowadays is very successful in his policies that he has adopted for the benefit of the people, I can say that I feel that he owes it, in great measure, to his First Lady and wife, Mrs. Imelda Marcos Ramouldez (PHONETIC).

In other words, what I say is that women have a

special sense which no man has. And that is the intuition which each and every woman has. (Unintelligible) this sixth sense. They can be of much help to their husbands and to the men of their respective countries. Now --

MS. : Thank you.

MR. : -- for a law minute, we have been asking ourselves what can be done by women in order to improve their government? In order to improve their husbands? In order to improve the male sex?

As a man, I would like to suggest that if you would like to adopt it as a resolution, women have the charm. Why can't you use your charm -- all women of the world -- in order to convince the men of your rights, of your places in all the world? Use that charm. Use that persuasion. Use that swiftness. Use everything that God has given exclusively to women in order that man should be convinced and you could occupy your place in the world.

MS. : Thank you.

(applause)

(laughter)

Your Honor, sir, you have certainly charmed us. We thank you. At this point, with great apologies to those of you who still wish to speak and with great delight in the interest in this topic, I would like to present to you three resolutions that were worked on by this committee for

your consideration.

The first, "Considering that this is International Women's Year and that the World Peace Through Law Center joins in commemoration to promote equality, development, and peace taking note of the world plan of action for the advancement of women, the declaration of Mexico on the equality of women and men and other related resolutions adopted at the World Conference of the International Women's Year in Mexico in 1975."

"And taking into account the United Nations declaration on the elimination of discrimination against women and other human rights conventions relating to the protection of the rights of women."

"And aware of the draft convention on the elimination of all forms of discrimination against women, under consideration by the United Nations Commission on the Status of Women, calls for speedy adoption by the United Nations of the draft convention on the elimination of all forms of discrimination against women, including appropriate measures of implementation."

"Strongly urges governments at all levels to implement transnational human rights prescriptions concerning the protection of women and further urges mobilization of all individuals and groups toward a world community of human dignity and equality."

Basically, what this resolution calls for is a recognition that, indeed, there exists a draft convention on the elimination of all forms of discrimination against women in the United Nations. That we urge speedy adoption of this and implementation of it.

I would say it would be the essence of this resolution. I would consider it moved and seconded before this body and in the interest of time, is there anyone who wishes to speak against this resolution?

All those in favor of the resolution, please raise your hands. All those opposed please raise your hands. The resolution passes.

There is a second resolution: "Whereas the United Nations Declaration on the Elimination of Discrimination Against Women calls for the equal treatment of women and men, and further requests the abolition of national laws and customs that deny women equal opportunities with men,"

"Concerned that legislation, customs, and practices, of a discriminatory nature persist in all parts of the world, and aware that there is a need for dissemination of information relating to the progress of women and women's rights be it therefore resolved that the World Peace Through Law Center gather, process, and disseminate on a regular basis, information relating to the status of women throughout the world."

"Be it resolved also that the World Peace Through

Law Center establish a standing committee on the rights of women to conduct appropriate activities, to promote equality for women and men."

"And be it further resolved that this standing committee on the rights of women initiate the publication of a periodic journal covering women's issues and invite women's organizations, law societies, schools, and other interested parties to contribute articles to this journal."

In essence, this resolution calls for the establishment of a committee, a standing committee, on the rights of women at the World Peace Through Law Center. It also asks that center to gather, process, and disseminate on a regular basis, information relating to the status of women. And also initiate the publication of a periodic journal concerning women's issues and invite participation on various groups.

I will consider this resolution moved and seconded. In the interest of time, again, is there anyone who wishes to speak against this motion? All those in favor of the motion please raise your hands. All those opposed, please so indicate. The motion passes.

The very last resolution: "Whereas women throughout the world will not be free to take full advantage of laws establishing their rights and enabling them to choose their roles unless proper family planning programs are established and pursued, be it resolved that the proposed

standing committee on the rights of women of the World Peace Through Law Center, devise and develop radio and film programs dealing with literacy and family planning, for the benefit of women throughout the world, especially for those from the developing countries, and arrange for the distribution of such programs internationally."

Again, that the proposed standing committee which you have just approved on the rights of woman devise and develop radio and film programs dealing with literacy and family planning, for the benefit of women throughout the world. Especially for those from the developing countries. And, arrange for the distribution of such programs internationally.

I will consider the resolution moved and seconded. And in the interest of time, once again, ask if there is anyone who wishes to speak against the resolution. Yes, sir? Please.

MR. : Mrs. Chairman -- I know -- Mrs. Chairman, it is just this point that I would like to be uttered, the rights of women you talk about and the duties. I think that is -- I think you must think of -- and if I remember it rightly, I think Madam Indira Gandhi mentioned the duties of this at the Women's Conference in the (unintelligible) of the world. I don't remember. Thank you.

MS. : Thank you. Your comment, sir, in this

particular resolution that deals with devising and developing radio and film programs dealing with literacy and family planning -- all right -- for the benefit that we could put -- you see --

MR. : But, it is not called a resolution (inaudible).

MS. : You're speaking in terms of rights and responsibilities, perhaps, of women, and I think perhaps in the other resolution we might find a way to include that. Thank you.

On this particular motion, we might want to also add "for the benefit --" -- which was our intent -- " -- of men and women throughout the world" or "women and men throughout the world" to devise these radio and film programs. And I think that was the intent. And, Emma, did you wish to add something? Why don't you.

MS. : I would move an amendment to the resolution to include with programs on literacy and family planning, also information on women's rights. And if we want to broaden it, "human rights" generally.

MS. : You wanted to include this in the film programs. I would assume there would be no objection to including that and we would not have to vote on that separately. Hearing no objection, we will add that to our resolution, which we'll now ask the World Peace Through Law Center

to devise and develop radio and film programs dealing with literacy and family planning and the rights of women and men, I assume, for the benefit of women and men throughout the world, especially for those from the developing countries and arrange for the distribution of such programs internationally."

Is there any opposition who wishes to be heard? Yes, please. Would you -- I'm afraid we must ask you to go to the microphone.

MS. : My name is Margaret Masso. I am from the United States. I merely wanted to say that in my opinion the proposed amendment dilutes the thrust of the resolution as originally proposed.

MS. : Thank you. Her comment was that by adding the amendment including women's rights, which as we now include it in the original motion, that it diluted it. But I sense this was not the sense of the group and I will now ask, in the interest of time, all those in favor of the proposal as read, please raise your hands. All those opposed? We will consider the resolution passed.

At this moment, I'm told that we must conclude the session and I wish to thank several people.

MS. : (Inaudible).

MS. : Indeed? Would you like to come to the microphone? We are due out of here in exactly one minute.

MS. : Thank you, Madam Chairman. I am Dr. Tiease, from Greece. I came up for the floor earlier. Nevertheless, I was not given the floor. For this reason, I would like to make my point.

MS. : There were approximately 15 people who were not given the privilege of the floor and I greatly apologize.

MS. : Never mind. My point is a fundamental one. I would like to be recorded in the report. We have adopted -- also with my support -- a certain number of resolutions referring to the first objective of the International Women's Year.

That is to say, to the objective of equality between men and women.

However, we have not adopted -- and there was not any proposal -- for a resolution referring to the two other fundamental objectives of the International Women's Year. That is to say, the contribution of women to the development and in particular, to the promotion of friendly relations among nations and people, and their role, for the maintenance of world peace.

I wanted to hear a resolution on this particular two objectives. Nevertheless, since I recognize at the present time that it is impossible because of lack of time, I would like this point to be made and to be included in the report of

our distinguished rapporteur. I thank you.

MS. : Thank you. It will be included in the report. Thank you very much.

(applause)

It's indirectly in one of our resolutions and we thank you very, very much. May I include our student and thank very much Barbara Middleholmes, who was our student assistant from Georgetown. Barbara, would you please rise and accept our thanks for your assistance with the committee?

(applause)

Mr. Leonard Sessles. Leonard is right here, who was a great facilitator -- a lawyer from Washington, D. C.

(applause)

I must say I have never been with a group of women panelists who have been more articulate, more brilliant, more pleasant to associate with. I'm just so honored to have been with them.

At this time, may I express the thanks to Iesa Mendosa, to Rachel Mianga, to Maria Louisa Fouster, to Emma Hill, to Dr. Chin. I'm glad you were here, Dr. Chin. And with very special thanks and to express our honor in having as our honorary chairman, the Honorable Miami Kaykay from Togo.

Thank you so much.

(applause)

MS. : My pleasure.

(END OF THE RECORDED PROCEEDINGS.)

WORLD PEACE THROUGH LAW CENTER

World Peace Through Law Conference -
Washington Seventh World Law Conference
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P R O C E E D I N G S

MR. : -- a treaty. There is a treaty on international terrorism concluded in 1970 -- in 1937 under the old League of Nations. But only one state ratified it. It's not a bad convention. It needs some amendments maybe. But this proves that it is not sufficient to make a treaty.

Also from what Professor Alona Evans has said, I can draw a conclusion that although we have specific conventions on hijacking, that the fact that these conventions exist do not guarantee an absolute safety against hijacking or against terrorism as a whole.

One has the feeling that people often think that from the moment you have a treaty a problem is solved. This is not true and therefore, it is my suggestion that states should -- without waiting for an international treaty -- come together. Discuss together in what manner, in which ways they can harmonize their national legislation on the matter. In which way they can introduce new as possible uniform measures and legislation in their criminal codes.

The more you think and you see the working of international treaties and the ways they are implemented and ratified, the less you become a believer in the efficiency of international treaties.

A second remark I would like to make is about so-called "state terrorism". Ever since the discussion on terrorism started

in the United Nations and whenever you attend a colloquium or a meeting or a seminar on international terrorism, one has to deal with a considerable amount of talks and papers and discussions about state terrorism.

The idea being that what, in fact, is bad is not the terrorism exercised by individuals or a group of individuals, but that the state terrorist acts are even worse. I think, ladies and gentlemen, that this focusing on state terrorism is but another way of diverting the attention from the real topic.

State terrorism has been dealt with by a lot of international instruments. There are the laws of war. There is the Geneva Conventions. There is the whole set of humanitarian law. There are the conventions on general science. There is the law on occupation. There is the whole bunch of legal rules and norms on human rights. And I think that we have sufficient instrument and instruments, international legal instruments. We have sufficient institutions dealing with these problems of state terrorism.

But this does not solve the problems of terrorist acts committed by individuals or groups of individuals. And in order to conclude these few remarks, may I apologize for not having solved the big question. And I am not sure whether we will ever be able to solve the big question. Namely, the one defining terrorism or international terrorism.

With this in view, ladies and gentlemen, and being

the last speaker here from the panel, I think that we have given you enough opportunity to speak, to think, and to react to everything which we said.

Thank you very much.

(applause)

MR. : I thank you very much, Mr. Cea and you made me feel, on behalf of the World Peace Through Law Center, very proud because you refer to three sessions of the assembly where there was zero achievement on a resolution on terrorism. But last year at Harbor John and in the words of a great governor of the state of New York, we did something. We adopted Resolution Number 20.

Now, at this moment, let us take -- as we say when we play baseball -- a five minute stretch in place and then we will resume.

MR. : Perhaps if they wish at this time to supplement anything that they said in the light of what had been said by another speaker -- and I would ask them to employ the microphones at the table, to do this. Now, I will go down the list.

Professor Emanuelli, have you anything further to offer at the moment?

MR. : Yes.

MR. : Within the two minute limit.

MR. : Mr. Chairman, I do not really have

any other comments to make except that I believe that if we are to follow the functional approach which the international committee seems to have adopted, the next step towards the elimination of acts of international terrorism should be in the area of the protection of unprivileged persons.

This mainly because they seem to be more and more often the targets of acts of international terrorism. Because also they sometimes have a semi-official mission to exercise. But mainly because there are no adequate principles of international law protecting them except for the principles of state responsibility.

MR. : Miss Arabbott?

MS. : No, I really don't have anything to add at the moment.

MR. : You yield. All right. Mr. Lawdig?

MR. : Thank you.

MR. : Mr. Miltig?

MR. : I yield, sir.

MR. : Senor Sidono?

MR. : No, thank you. Nothing. Nothing.

Mr. (unintelligible). I'm still exhausted.

MR. : Okay.

(laughter)

Very well. I have one announcement to make immediately. To say that in accordance with standing order 10-D-1

prior to -- all hours prior to the convocation of this session, a resolution was submitted for consideration. Resolution was submitted by Mr. Why Bloom. I have it here for consideration by the -- this working session.

To make it easier, I have a number of copies here. I'm going to read it first, just quickly, and then we'll distribute it along the aisle. So -- and then it will be passed along the aisle. And ultimately, after the discussion, there'll be another resolution that Mr. Miltey has. We'll do the same thing with that.

And then, ultimately, we will vote on these as well as any others that might be submitted. But the reason I'm going to read this and also read yours, Mr. Miltey, which I take it you're offering now, is that perhaps in reading you'll get some sense of it.

This is Mr. Miltey's resolution. Extremely concerned about the spreading of acts of violence committed by individuals or groups against innocent people and about the serious impact that these acts have or are likely to have on orderly international relations. Mindful of the efforts and progress which has already been made in several fields in order to prevent and combat such acts.

Conscious of the still existing gaps in the results already achieved and of the lack of progress in order to ban all other forms of transnational violence. Recalling that

states are under an obligation to respect, protect, and safeguard the human rights and fundamental freedoms of all persons within their jurisdiction.

The Seventh World Conference of -- the World Peace Through Law Conference, one urges governments to take the necessary steps in consultation with each other in order to introduce a national legislation and administration as far as possible. Uniform measures to prevent and punish acts of transnational violence.

Two, requests this organization to continue its efforts in the search for appropriate legislative guidance to states. Three, urges governments to fully respect and implement human rights so as to avoid situations which may serve as a pretext for individual or group violence.

Four, urges international organizations and specialized agencies, each in its field, to elaborate measures so as to avoid technological progress being used for terrorist purposes.

Now, I'll read the other one and then the clerks will distribute them along the aisles.

Recalling Resolution Number 20 on the prevention and punishment of international terrorism adopted by the Arbor John World Conference on World Peace Through Law --

MR. : (Inaudible).

MR. : Sure. "Whereas, despite universal

repugnance and condemnation, acts of terrorism continue to be a frequent and widespread occurrence and provoke grave international tension."

"And whereas acts of terrorism are violations of international law and order, resolve: one, that all states resist acts of terrorism and treat such acts as crimes; two, that all states refrain from granting asylum or any other form of assistance to the perpetrators of acts of terrorism and their accomplices; that all states undertake the prosecution and punishment or extradition in accordance with principles, _____ of all the perpetrators of acts of terrorism; that all states cooperate with one another and with appropriate international organization for the purpose of suppression of the crime of terrorism and the punishment of its perpetrators. That immediate effect be given to Arbor John Resolution Number 20."

Now, distribute these down the aisles over there. Oh, fine. Yeah, give one on each aisle. One will be given to each aisle so that you can read it, pass it down, and then we'll pass -- yes, we'll have them here.

MR. : (Inaudible).

MR. : Yeah. Wait a minute. All right?

MR. : This is for recognition, right? No record? All right.

MR. : In order to adhere to our time

schedule, with the number of speakers that we have -- there being 12 -- each speaker will be limited to three minutes. And you go to the microphone in the center so that your voice can be picked up by the translators, make your statement.

At the end of three minutes whether you're in the middle of a sentence or a syllable, I'm going to yell, "Time!" And that's the end.

Mr. Bloom, Professor of International Law, the state of Israel. Professor Bloom, you're on time now.

MR. BLOOM: Thank you, Mr. Chairman. Not surprisingly, Mr. Chairman, at least one of the presentations which we heard here, made the notion of so-called "state terrorism" the central theme of that presentation.

Now, I found this a really remarkable achievement because by way of admirable tour de force we have actually told that it wasn't the terrorists who were terrorists, but rather those who oppose terrorism should be regarded as terrorists.

Now, with all due respect, I would like to submit that we adhere by the classical distinction of terrorism on the one hand and state responsibility on the other, because otherwise I am afraid that this whole exercise is going to lead us only to an attempt to absolve international terrorism from responsibility on the national and international level.

It is, of course, true as Professor Evans rightly

pointed out that in many instances terrorism -- individual terrorism -- is indirect state terrorism in that it is supported, egged on, financed, abated by states who in this way seek to evade their responsibility under international law to refrain from the use of force.

But I still believe that in this gathering here, when we look at these questions as lawyers, we should not go beyond the acts themselves, as Mr. Cea so rightly pointed out, and that all questions of psychology, psychiatry, genetics, sociology, and so on should for present purposes, be disregarded.

After all this -- Mr. Chairman, this is a conference of world peace through law and I would very much be astonished if we would turn it into a conference of world anarchy through lawlessness because this is what it -- actually, international terrorism is all about.

It is with this in view that we have submitted our draft resolution calling for a reaffirmation of the Arbor John Resolution and actually, for a stepping up of the measures envisaged under that resolution.

I hope I am in time. Thank you, Mr. Chairman.

MR. : Just in time.

(applause)

Since references have been made to the Arbor John Resolution -- Resolution Number 20 -- and for fear that in the minds of a distinguished audience that may be just a

number without too great significance, I have a few copies of Resolution Number 20 and would you distribute those in the same way so people can read them?

That's enough. We've got enough here. Our next speaker is Mr. Leo Nevice, a lawyer of the United States. Mr. Nevice?

MR. NEVICE: Mr. Chairman, in the short time available, I do want to express my gratitude to the members of this panel for their presentations which I think were excellent and particularly Professor Miltey and Mr. Cea.

I do feel that the point has been made very clearly by our Under Secretary General as to what the nature of a subject we're discussing here is. And that is terrorism as we all clearly understand it.

We understand it as the terrorism that destroys, kills indiscriminately innocent people, hostages, and is an unlawful, lawless series of acts.

Since that point has been made so well by much more able people than I, I would like to pass from that and talk just for a moment with respect to the comments with respect to Spain and the terrorist acts there.

A clear example of what occurs when terrorism becomes the act of the day, occurred in Spain where in reaction to the terrorism that took place, we've seen the terrorists themselves deprived of an adequate defense, an adequate op-

portunity to present their cases in the courts in Spain.

Legal counsel, adequate defense by these legal -- by their counsel was not available. They were deprived of them in the sense that they were suspended. This is a natural act resulting from terrorism where there is counter action and counter repression by the state.

It is for that reason and for all the other reasons of state, it seems to me that we should unequivocally here without any hesitation or without any faltering, condemn the acts as they have been stated in the two resolutions that have been presented to us here today.

MR. : I thank you very much, Mr. Nevice.

(applause)

The next speaker will be Dr. Milan Bul-Ajic of Yugoslavia, the Counsel General. Is he here?

MR. BUL-AJIC: Mr. Chairman, I have been assigned to represent my government on trial of assessments to -- of Yugoslavakia.

MR. : I'm sorry. I have to object to your presenting your remarks as a representative of the government.

MR. BUL-AJIC: No, I'm not. I'm not.

MR. : You just said that you are here on behalf of the government.

MR. BUL-AJIC: No. I did not say that.

MR. : If you will be --

CONTINUED

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MR. BUL-AJIC: I did not say that, Mr. Chairman.

MR. : I'm sorry. I withdraw it.

MR. BUL-AJIC: I said after an assignment -- I've been assigned to represent the government of Yugoslavia --

MR. : No.

MR. BUL-AJIC: -- on a trial. I thought I might speak about the judicial experience --

MR. : Sorry.

MR. BUL-AJIC: -- of fighting terrorism. After attempting to -- in legal committee of the United Nations under the chairmanship of Mr. Eric Cea, on international terrorism, I thought I might speak on the experience how to regulate international terrorism.

But, instead, Mr. Chairman, I would like to say a few words as experience as a victim of terrorism. Presently may I remark that I do not intend to complain or criticize this (unintelligible) country. The U. S. State Department -- but some experience which I think might be important for our consideration, namely that after the attack of terrorism made in turn in your city, Mr. Chairman, New York, after five months a little bit more. Nothing happened to those who attack us.

So then it provoked a series of other terrorist acts including the attacks through fabricated story about foreign representatives in this country. And _____

explored it in the front of our United Nations mission in the United -- in New York.

Then another article accusing me to plant the bomb there, etcetera, etcetera, and the same group, same terrorist group which attacked just on September 28th an innocent, private citizen in New York now in jail is the only one who defended himself against terrorists. Terrorists are free and the man who tried to defend him with a gun, he is in the jail.

Now, my point, Mr. Chairman, is this. We are discussing about international regulations. We are discussing about (unintelligible) every country to adopt its own laws. But more important is to implement, to fight terrorism wherever it is an attack on innocent people or representative of foreign government.

There are different kinds of terrorism and we don't have to wait before terrorism should be fought. But every way and expression of terrorism should be fought. That's my point.

MR. : Thank you very much. The next speaker will be Justice Adolpho De'Miguel of Spain. Will you speak in Spanish -- Espanole?

MS. : In Spanish.

MR. : (In translation:) Mr. Chairman, gentlemen, just a few words. The time does not allow for more to express our satisfaction and at the same time express our

hope. We are very pleased because of the juridical tone, the measured tone that has been used here and that is appropriate for jurists.

Also in addition to sudden -- rather emotional expressions in respect to certain points, I think that I can say that in general we have been very objective, very legal, and we have tried to protect ourselves legally and within the context of law without abandoning the rule of law because we do not wish to do so and we do not need to force to leave the rule of law.

And that, therefore, we want to express the hope not just of reaching agreements. That is very difficult and we've been told about this. But we have to share the common conviction as jurists when we leave this room, to realize that this is a common task without bearing in mind the ideological coloring of the terrorists in either quality or condition as a magistrate. This is what I hope and aspire to.

I am comforted by the thought that this terrorism that is threatening the general peace of all, especially those that might be victims to this, terrorism must be confronted juridically, legally.

Those countries that have managed to succeed whatever means that they may have adopted, we want to congratulate them. In those who have not managed to overcome terrorism, we have to extend understanding and assistance. Personally,

I am not very -- a great supporter of the story of the wolf. But we have to admit that the wolf is there. And though it might emulate the words of the simple, but we have to bear in mind in connection to the specific resolution presented -- personally I would like to underline that we do not emphasize duly the duty of respecting the sovereignty of other states and to remind the prohibition of encouraging terrorism in other peoples' countries. Thank you.

(applause)

MR. : Yeah. Our next speaker will be Mr. Jeff Vulonie, who is Vice President in Asia of the World Peace Through Law Center.

MR. VULONIE: Mr. Chairman. Thank you, gentlemen. I only intervene to say this, that terrorism will never be outlawed and effectively eliminated so long as there are responsible elements and responsible legalistic and juristic elements at that in some of the states, which are prepared to water down their condemnation of terrorism and are willing to justify it in a given set of circumstances.

I think, Mr. Chairman, this center and at any rate an overwhelming majority of its members must vigorously condemn terrorism in all forms and make it clear to everybody concerned that under no circumstances of any kind is terrorism to be tolerated.

(applause)

Mr. Chairman, I must share with this house my feeling of dismay and my sense of frustration that every discussion at every panel is somehow bedeviled by the hostility and bitterness rising out of the Middle East conflict. We have tried our best to suppress it in every session but it keeps eddying up to the surface and it is high time that we called a spade a spade and it is high time that we dealt with it squarely and honestly.

(applause)

It is no use -- it is no use pushing of our problems and of the real problems under the rug and believing like an ostrich, burying itself, its head in the sand, and proclaiming that no danger exists at all. That danger very much exists and it is time that we grappled with it and grappled with it as squarely and honestly.

I do not believe, Mr. Chairman, that violence can be justified in any form or under any circumstances. I happen to come from a country, the founding father of which is the great Mohandas Gandhi who taught us one thing only that means are as important as the ends. And if our means are permeated with violence and with bitterness and with hindrances that ends shall never materialize.

Every act of terrorism, Mr. Chairman, is the beginning of a concentricity of circles of violence and counter violence. And violence must ultimately bleed passion, it must

breed recklessness. Still, Mr. Chairman, the memory of all betrayed lets noble purpose go and usurp the mind till man, mind, and purpose are all and none.

Ladies and gentlemen, I have not the slightest doubt that violence involved in terrorism must ultimately defeat the very inalienable rights in the supposed pursuit of which terrorism is being justified.

Let me say this and pardon me for striking a personal note, there are no unalienable rights in the world. All rights are the product of time and circumstance and must ultimately have their foundation in the greatest good of the greatest number.

I am a refugee from Pakistan. I started my life as a refugee in India. It will be ridiculous for me, after 25 years, to say that I have still an unalienable right to get back to Pakistan and occupy that house, that land, that particular hamlet in which I once upon a time lived.

These things must ultimately yield to time and circumstance. The wounds of the past must be healed and let us apply some honey to those heals.

MR. : You're out of time.

MR. : Thank you, Mr. Chairman.

(applause)

MR. : I thank you very much, Mr. Vulonie
and I'm very sorry that I had to invoke time.

MR. VULONIE: I (inaudible) your incision, sir.

MR. : Thank you. Professor Silber, of Mexico. Espanol or Anglaise?

MR. : (Inaudible).

(laughter)

Thank you, Mr. Chairman. I am representing myself so no objections are going to be of value. Well, I wonder if I can make a question to our colleague from Spain and if I can, I want to make it in Spanish.

MR. : Well, if you make it in Spanish, you want to put the question to him, you can. What I'm saying now is not on your time.

MR. : Okay.

MR. : But the response to your question will be on your time. So --

MR. : Well --

MR. : -- suit yourself. Do you want to put the question?

MR. : Sure.

MR. : Very well. In Espanole?

MR. : Yes.

MR. : It's on -- all on time.

MR. : (In Spanish.)

MR. : (In translation:) Mr. attorney from Spain, I would like to ask you the following question. It is

necessary that terrorism -- and this is the purpose of this conference -- that it be confronted through law and through legal means. And therefore, it is necessary that all of us who come from different parts of the world, may have an idea of what is being done in other countries in this respect.

Could you be so kind as to give us as briefly as possible, in a synoptic manner, what is the procedure, what are the procedural phases that are used at the time that a terrorist is brought to court in Spain?

MR. : The phases of stages will depend on the type of crime he has been accused of because certain types of crime are subject to the common penal code and others, because they're an attempted murder of a policeman, guards, and other forces, they come under the military code of justice during the first -- in the first case or in both cases. There is a stage in which a judge takes cognizance of the case. He accepts the statements from the individual, from the accused. Then he has a defender or an attorney or a lawyer. He may propose whatever proof and suggest any witnesses.

And, as in any other case, military or civil, there is a period of the instruction or acceptance of information period, of witnesses and proof, and then it goes through the planning. Then it goes to the competent court and then in the military court, to the military court if it is an assassination of a member of the armed forces.

And then, there is an oral judgment. He has a right to defense. However, according to the new decree to fight against terrorism so the lawyer does -- cannot claim that he is sick and he is designated a maximum of three -- no. And then we have the view of the case as in the case of every other one.

MR. : Mr. _____, of Australia.

MR. : Thank you, Mr. Chairman. I think it is generally agreed that the only way to move forward with this problem at a universal level is through the United Nations. Now, whether we like it or not, there is a deadlock in the United Nations.

This item on the agenda of the Sixth Committee now comes right at the end and it's well known. It's put there because there will be no time to discuss it.

Now, this is not only because of the complicated circumstances in the world. It's also because in the United Nations even a convention can be construed as a polemical document and anyone who's involved with work on the definition of aggression knows that a great deal of the problem was not over the principles, but over the use of the formulations in particular contexts.

Also, personally, I think in the highly charged atmosphere that this problem is discussed generally, it would be better to drop the word "terrorism". We're dealing really with the problem with the impermissible use of force.

But are we really to date deadlocked? Is there no way to go forward? Well, I suggest there may be some ways of partial progress. One of them will be through a second protocol to the Geneva conventions. This has been discussed in the humanitarian law on conflict conference.

The fact is that is that the colon articles three of the Geneva Convention provide the minimal legal regime to deal with armed conflicts for noninternational character. Now, these must be expanded and they must be expanded both ways to secure to all competents of armed conflicts of noninternational -- of certain rights and duties.

Now, the duties owed to the competence of a nonstate party are those of natural justice, due process of law, and all the values that evolve without growth of humanitarian law. These need to be spelled out in that context.

And I think as advancing that you may get some provision on the protection of the civilian population, some provisions regulating, regarding the conduct of hostilities.

And finally, I suggest that thought should be given to the extension of the standard minimum rules to cases of detention and similar instruments dealing with the right to due process of law.

And I think if this way you can achieve equilibrium, you may be able to get a general, all around improvement in the present legal regime. Thank you, Mr. Chairman.

MR. : I thank you very much, Mr. _____.

(applause)

Mr. Sayadi of Yemen.

(applause)

MR. : Thank you, your excellency. Indeed, I was elated by the eloquence of the speakers. I would like to commend them for that. For their eloquence has elevated me out of the existing realities to a world full of fantasies. Their prescribed solutions of international terrorism is legal documents and a stringent mission to punish the terrorist.

Your excellency, I would like to draw your attention and the attention of the audience to the many forms of terrorism.

State terrorism, such as the kidnaping of innocent civilians from south in Lebanon by the Zionist entity --

MR. : I must object. You cannot make specific references to countries. That's a political --

MR. : Thank you.

MR. : -- remark.

MR. : (Unintelligible).

MR. : You're violating Rule 6 and I must tell you that my admonition to you counts on your time.

MR. : Thank you. Air attacks against elementary schools in _____ in 1970, which resulted in over 80 dead, the massacre of (unintelligible) and so on.

And the other form of terrorism which is individual terrorism; individual terrorism which is the result of oppression, colonialism, racism, and Zionism.

MR. : I must again --

MR. : (Unintelligible).

MR. : (Unintelligible) references to the violation of Rule 4. Please look at Rule 4. If you continue in this way, I will have to remove you from the podium.

MR. : Okay. Thank you. Therefore, Mr. Chairman, the solution lies in the root of the problem; an astringent punishment of those who commit terrorism will never solve the problem. And there is an Arabic proverb and I want to quote it for you.

(In arabic and then in translation:)

"To throw fire over already blazing fire will never extinguish that fire. Rather it will increase it."

Mr. Chairman, to conclude, I think we are living and sitting here in this conference discussing fantasies. Thank you.

(applause)

MR. : Thank you, Mr. Sadyi and I'm sorry I had to call to your attention Rule 4. If you'll read it now you'll see I was perfectly justified in my comment. The next speaker will be Mr. Isadora Wagmister of Argentina. Espanole, senor?

MR. : (In Spanish.)

MR. : (In translation:) Thank you, Mr.

Chairman. I have heard with great satisfaction the presentations of the members of the panel. I can -- I want to assure that I fully agree with the points that have been put forth by our colleague, Dr. Fancule Sedanyo.

We are asked that we understand the causes. That we understand the means used to judge the terrorists. But we do -- really have to bear in mind that our children, our brothers, our relatives are being affected by terrorism.

I understand that we cannot even discuss now national guerillas or terrorism because of their connections, their terrorism, their links with the other side. There is no doubt about what the similarities between (unintelligible Spanish) Bolivian terrorists, as indicated by Professor Sedanyo, there is a total identification. This is within the context of Latin America.

I want you to understand that this is the question that we're discussing. If we are discussing it at the juridical level -- and I do not want to delineate because I too profoundly respect human rights -- they are killing our innocents and those people who are not even interested in politics.

Mr. Chairman, I want to add as a motion or amendment to the draft resolution a clause in the -- and I shall attempt to read it slowly so that our kind translators or interpreters

will transmit it.

That is that the states will abstain from admitting opinions or interceding in favor of individuals who have been condemned for acts of terrorism and whatever be the penalty imposed by the state where the crime was committed.

This is established on the basis of not only of self-determination of the people but also the need for self-preservation of the human species.

Thank you very much.

(applause)

MR. : If you will place your resolution or amendment in written form so that I can read it and perhaps there is a gentleman here, sitting up in front, who is conversant in English -- fluent in both English and Spanish. This gentleman's conferaire, I guess he left. Then I can have it. But if it's in Spanish that way, I cannot do anything with it.

Very well. The next speaker is Professor Hausnee of Sudan.

(applause)

MR. : Thank you, Mr. President. I was only taken by a comment that international law is adequately followed or found to govern all cases of state terrorism. I was also told that the only rule of international law that might govern this situation is to take responsibility. I am

lost between the two. I hope I can find some resolution for one or the other.

The rule of law that I would like to be attracted to is any rule of law, rule of international law, that would govern the action of a state through its own armed forces or government agencies -- like the CIA or others -- through these going in and not only devastating and killing other people but with the most advancing technological devices -- now the napalm and what next, we do not know.

Mr. President, I am also aware to the fact that some of these cases have been debated before the Security Council and I was present there at that time as a representative of the State of Kuwait. I have followed those deliberations very closely. I have not found, except some political rules or devices or principles, I haven't found any rule of international law.

Since this is an organization for world peace through law, I do believe that we have the responsibility to invoke a rule of law to bar such actions of any state it be.

Also, Mr. President, I would like to refer to a statement by President Ford, himself, at a press conference when he said that actions of a state, whatever they are, whatever the devices are employed, are justified as an instrument of foreign policy directed by that state of innocent (inaudible).

MR. : Excuse me. May I ask this? You are now talking about state action? What does this --

MR. : State --

MR. : I just want to know the relevance to terrorism.

MR. : State terrorism. This is why I'm going also to propose an amendment to any of these constitution -- any of these resolutions being proposed now. I would really like, in view of these actions, to propose an amendment to all these resolutions or draft resolutions being tabled now that whether it is transnational violence or individual or group violence, to add that where state violence -- and when we say "transnational violence" we shouldn't leave it as vague. We should at least say any sort of terrorism by an individual, a group or a state.

The reasons, as I said, is already covered in what I have just mentioned to you that rules of international law have not been adequate in this subject. The only rule have been singled out by a colleague, Mr. Emanuel, saying that it is the rule of the state responsibility.

Now, there are so many other rules of international law that have been as vague as this --

MR. : Excuse me. Your -- your time is up, sir and so far as your amendment is concerned, if you have the two resolutions you can indicate the amendment so I

can read them out when we vote on them.

MR. : Okay.

MR. : Thank you very much.

(applause)

Dr. Quasim of Libya?

MR. : I shall address myself, sir, directly to the draft resolutions submitted to us.

MR. : Which resolution are you referring to?

MR. : Well, I'm referring to the one -- this is not on account of my time, sir. To the one extremely concerned -- the one beginning with "extremely concerned about the spreading of acts of violence committed by individuals or groups." Are you with me, sir?

MR. : This was not on your time, sir.

MR. : Thank you very much. May I now?

MR. : With pleasure, sir.

MR. : May I -- may I start now? The

speakers from the panel have drawn our attention to a number of points which really should be taken care of in these resolutions. There is state terrorism which has been emphasized by everybody on the panel. There is the distinction between legitimate and illegitimate terrorism, thereby referring to the liberation movements. And there is a drafting amendment.

So with that in mind, sir, I propose that the first

paragraph at the end of the line, first line, we add the word "states" so that it will be read, "extremely concerned about the spreading of acts of violence committed by the states, individuals, or groups."

Then we add also the following two paragraphs in the preamble.

The first one: "Conscious that the denial of human rights and in particular the right of self-determination, is one of the main causes of international tension leading to violence."

And the second paragraph, sir, is this: "Recognizing the legitimacy of the struggle of peoples for the liberation of their homelands and attainment of their national independence."

This way, we can draw the distinction so that there will be no confusion in the minds of anybody about -- since the term "terrorism" has not yet acquired a definite legal definition. This will be one way of trying to help in that definition.

And, sir, in the third operative paragraph urges governments to follow respect -- to fully respect and implement human rights. We add here: "And in particular, the right of peoples to self-determination."

In the same paragraph, the word "pretext" -- I'm not an Englishman, sir, but the word "pretext" has certain con-

notations which mean that perhaps it's not justified. So since we are not making a judgment in this paragraph, I would suggest that instead of the word "pretext" we use "justification". Then it will be clear with no connotation connected with this word "pretext".

Thank you, sir.

MR. : May I suggest this, that you indicate in ink or pencil, the changes so that I can read them. It is impossible --

MR. : Yeah.

MR. : -- to consider --

MR. : I shall write them and give them to you, sir.

MR. : And submit them, because in about five minutes or just about that, we will be going to the resolution. So do it immediately.

MR. : Thank you.

MR. : Thank you. Mr. Shah of Pakistan.

(applause)

MR. : Whenever the term of terrorism is mentioned, the term of -- word "stability" and "peace" is also mentioned. These two terms are always interlinked when the discussion of terrorism takes place. But what I would like to present before the honorable panelists is a point.

Stability and peace for whom? For the elite? Govern-

ing elite who can perpetuate the strangle hold of moral bankruptcy, of corruption over the toiling masses who are living in policy, which to my mind is --

MR. : I'm sorry, sir. I have to interrupt. This is a political speech and it's --

MR. : I'm not --

MR. : -- in violation of Rule 4. This is a lawyers' meeting. Address yourself to legal propositions. I'm very sorry.

MR. : Okay. My legal proposition is that since international law is so much linked with the status quo, with the perpetuation and protection of the governments, why is the right for those people to rebel against the existing regimes which have lost the legal justification because of their tyrannical attitudes, being justified through the condemnation --

MR. : I must again interrupt you because you are addressing yourself to a political issue, not a legal issue.

MR. : Well that in itself is derivative from politics. I don't know how you are isolating it. I think if you are isolating it then let's forget this whole discussion.

(applause)

MR. : Very well. I'm very sorry. As I

announced at the beginning, my judgment as to relevancy must prevail and I must say that your remarks are political in nature. I must ask that --

MR. : Then the whole -- I think then the whole forum is political in nature then. We should I think not discuss this topic at all. If you are cutting off my right of free speech and I think it's very -- I consider it highly unfair that what I'm addressing to is being still without any legal justification because I have just read Article 4 and there is a man here condemned Pakistan and condemned those who use the name of India. And you never raised any objection.

MR. : If I didn't, I'm very sorry and I condemn him for using it and I apologize for not having done my task. But because I made a mistake once before don't criticize me for not making it again. Now, this is all on your time, sir, and I'm sorry I must interrupt you if you persist in this form of address.

MR. : Okay. My basic point --

MR. : It is not necessary -- I'm sorry --

I don't recognize you, sir.

MR. : (Inaudible) time.

MR. : I do not -- please. No --

MR. : I think we should plan (inaudible).

MR. : No. Please. Please, may I ask --

MR. : (Inaudible) Pakistan.

MR. : Please.

MR. : I think all you gentlemen haven't

given me a fair chance. My point is that since most of the -- I feel that violence is a very strong instrument of social change and if you deny cognizance of this basic reality, I think we will just be living in a cocoon. We'll just be glancing at mirages. We'll just be living in a world of fantasies or in Disney World.

And I've come here to present certain facts. The facts is that when people take up arms, they have a right because they are having dispossession. They are suffering from hunger. They're suffering from misery and these in itself provide them with the justification or the pretext to use force to counteract the illegal use of force over them.

I feel that to combat unlawful violence or justifying violence is a legal justification. And I feel that if we do not consider that, then I will always feel that international law will remain an elite privilege for the few rather than the legal expectation for all.

And if you want international law to remain the prerogative of the ruling elite --

MR. : I must interrupt you. You have time. I'm sorry, sir. Next speaker will be --

(applause)

-- Mr. Salig -- is that the way to pronounce it? -- of Egypt. Salig of Egypt. Is that it? Did I pronounce your name correctly?

MR. : Yes, you did.

MR. : Thank you.

MR. : I have a very brief comment. In fact, I wouldn't even exhaust my two points -- my two minutes. It's only that I felt when Mr. Surai was talking about the United Nations' handling of the topic that there is no, you know, distinction between what's called the governments of conflict, like what you find between two governments for example, and what you call nongovernmental conflict.

So you will find a lot of nongovernmental conflicts and at the same time, the U. N. did not do anything in order to solve them. And one of them was in the Middle East. Anyhow the second one -- my second point is that if you -- if we are trying to look to the role of the international law, I think we are not in need of a supplement to supplement what we have of the international documents and the conventions.

We have also, at the same time, to urge all governments just to appeal to international law when they are dealing with minorities, whether human rights and where the majority living within their borders. And in so doing, you will have a balanced way of looking to that topic not only to try to supplement new and the newer conventions, but also to try to

push the people to apply what you have. And in doing -- in so doing I think we can go in more scientific basis. Thank you.

MR. : Thank you very much.

(applause)

The next speaker will be the last speaker. And then, I will ask for a show of hands on the resolutions. Before doing so I will ask those who are submitting amendments to put them on the table so I can read them. And there was one resolution that was in Spanish that was going to be translated. I don't know what happened to it.

The last speaker is Mr. Jackson, High Commissioner for Refugees of the United Nations. Mr. Jackson?

MR. JACKSON: Mr. Chairman, in paragraph two, the draft resolution which has the numbered paragraphs, I might propose the deletion of the words "asylum or any other" so that the word -- the paragraph would read that all states refrain from granting any form of assistance.

The reference to asylum in this connection gives rise to difficulty. We do not, of course, wish in any way to condone terrorism, but it is not necessarily the case that every terrorist is per se excluded from asylum. This is a matter that -- the question of asylum was discussed in detail at another panel and whether or not a terrorist may or may not benefit from the generally recognized principles relating to asylum, should be determined by the criteria governing that

institution.

In connection with Resolution 20 adopting in Arbor John, paragraph four reads in particular that in the application of the terms of such conventions, the institution of humanitarian asylum shall not be impaired. Whether or not a terrorist is excluded from asylum, as I said, should be determined on the merits. And this possibility is left open by the alternative provided for in paragraph three of the resolution either to extradite or to punish. And this is in line with the hijacking convention adopted at the Hague in 1970.

(applause)

MR. : May I -- just a moment. Mr. Jack -- Mr. Jackson, I take it your only amendment is in paragraph two for the deletion from "asylum" to the --

MR. JACKSON: Yes, sir.

MR. : Asylum -- let's see -- mark it -- mark it over there so that I can read it.

MR. JACKSON: Okay.

MR. : All right. We have now concluded with the round of speakers. Two resolutions have been distributed. I also have some amendments.

MR. : Point of order?

MR. : No. No point of order. I'm the order. We have two -- we have two resolutions to consider. There was a third resolution that was supposed to be trans-

lated. Has it been translated? Do you know? Or the gentleman was going to translate so that we could distribute it.

Two resolutions were distributed. I just hope everybody has had an opportunity to read them. In any event, we have two series of amendments. One to Mr. Miltey's resolution and I'll read those amendments. And the other to the resolution submitted under 10-B-1.

Excuse me. The same amendment? In Spanish?

MR. : Spanish.

MR. : Is this an amendment or a resolution?

MR. : (Inaudible).

MR. : Addressing myself first to Mr.

Miltey's resolution, the first proposition that has been -- well, let me say this, under the parliamentary procedure which we employ, you follow -- you vote on amendments first before you vote on the resolutions. And the amendments are out. You don't vote on the amendment and then on the resolution.

And may I say this, the resolutions that are adopted here are merely recommendations. They go to the Resolutions Committee. The Resolutions Committee considers them. They can either take them or reject them and then they can modify them too.

The only place where resolutions can be adopted is at the planary session. So if you bear that in mind, you must realize that whatever happens here is just in the nature

of a suggestion to the Resolutions Committee.

The first amendment is that I'm taking Mr. Miltey's resolution which starts, up on the top, Seventh World Conference of the World Peace Through Law Center -- the deletion of one, two, three, four --- all of the operative paragraphs and substitute the following and I will read it slowly.

"Any government will not interfere or express his opinion in favor of individuals or groups condemned by acts of terrorism whatever may be the sentence imposed by the states where the act of terrorism occurred."

Shall I read it again? All right. In lieu of paragraphs one, two, three, and four of Mr. Miltey's resolution the -- I must -- we substitute the following:

Just a moment, please. The time for submitting amendments -- I must call a halt to it --we'll never conclude here this evening. I've got enough resolutions. Anybody else that has any amendments can bring them up to the resolutions committee and have it voted on there. Otherwise, we'll never be through here tonight. I must tell you the program requires us to be at the press conference within a half hour and I must be able to prepare a summary of this meeting and submit resolutions.

Therefore, whatever I have now we'll vote on. If anybody objects to anything that has been voted on here, they are privileged to go to the resolutions committee and make

their plea there. And I might say that applies even if we reject any of these amendments. The amendment that I'm giving you now, if it's rejected, it can be resubmitted before the Resolutions Committee. There's nothing final. This is just a recommendation.

All right. Instead of Mr. Miltey's one, two, three, four --

MR. : (Inaudible).

MR. : Yeah. Okay. Isn't that what he wants?

MR. : Sir, the proposal made by the gentleman from Argentina is towards adding after one, two, three, the following paragraph.

MR. : So four is out? Four is out?

MR. : No. Four is not out. It's between two and four.

MR. : Very good. I'm sorry. You take one, two, three, four and add the following. Call it two ways, so to speak. "Any government --" or 3-A -- "Any government will not interfere or express his opinion in favor of individuals or groups condemned by acts of terrorism, whatever may be the sentence imposed by the state where the act of terrorism has occurred."

Now, having read that amendment twice and having put it in the proper place with the aid of my colleague, I

now ask for a show of hands. Who are in favor of the amendment? Who are opposed? The motion -- the amendment is defeated.

We now have another group of amendments to Mr. Miltey's resolution. Looking at paragraph one of the operative provisions of the resolution, you add at the end of the first paragraph the word "states". Two, add the following two paragraphs to the preamble:

"Conscious that the denial of human rights and in particular, the right to self-determination, is one of the main causes of international tension leading to violence. Recognizing the legitimacy of the struggle of peoples for the liberation of their homeland and the attainment of national independence."

Three, add in the third operative paragraph to the word "human rights" -- and I hope you're following this -- and in particular the right of people to self-determination.

Four, change the word "pretext" in the third operative paragraph to "justification".

I'll read it once more so that you can follow it if you can. One, add at the end of the first paragraph the word "states". Add the following two paragraphs to the preamble:

"Conscious that the denail of human rights and in particular the right to self-determination is one of the main causes of international tension leading to violence."

"Recognizing the legitimacy of the struggle of peoples for the liberation of their homeland and the attainment of national independence."

Three, add in the third operative paragraph after the word "human rights", quote, "and in particular the right of people to self-determination." End quote.

Four, change the word "pretext" in the third operative paragraph to "justification".

I now ask for a show of hands on the amendments that have been submitted.

MR. : Point of order.

MR. : I don't recognize the point of order.

I'm sorry. I'm asking for a show of hands in support.

MR. : (Inaudible).

MR. : I deny your opportunity to submit a point of order. If you object to my ruling, go --

MR. : At the opening of the meeting (inaudible).

MR. : No, I am running the meeting. Go out to the program director. Just --

MR. : Mr. President, may I direct you that amendments are to be voted upon separately. This is a rule of law, if you do not happen to have known it.

MR. : I don't --

(applause)

MR. : And this is my point of order. I want to vote for one amendment and not the other. And these are presently separable parts.

(applause)

MR. : We will first vote on the amendments as --

MR. : I have a point of order and I demand a ruling on the order.

MR. : I'll give you the ruling. I'm going to give you the ruling right now. We're going to vote --

MR. : (Inaudible).

MR. : Well, I'm going to ask you to leave the room if you're not going to allow me to speak. We're going to --

MR. : You have to receive my point of order for it to be possible to rule on it. You didn't hear it yet. You see?

MR. : He's impartial. Impartial.

MR. : I have a right to direct this meeting in the chairman's (unintelligible).

(Simultaneous unintelligible.)

MR. : I have a legitimate point of order to make. The point of order is the legal (unintelligible) of the United Nations. I happen to have been a delegate and an ambassador there and I know how to direct myself. I have never

seen a chairman who would not receive a point of order.

MR. : (Inaudible) given it up.

MR. : Having been interrupted --

MR. : (Unintelligible).

MR. : Having been interrupted, I will continue --

MR. : (Unintelligible) what I'm telling the chairman and I have the right to confront (unintelligible). He is the one who is ordering the meeting, not you.

MR. : Having --

MR. : I direct you -- Mr. Chairman, I have a point of order and I want it to be received and I want to be recognized for it to be voted on.

MR. : Having ruled the way I did, we're going to first vote on the amendments --

MR. : I want --

MR. : -- as a (unintelligible).

MR. : -- to silence your ruling before you proceed to the voting.

MR. : I'm going to ask the Sergeant at Arms to remove you from the hall if you continue with this --

MR. : Well, then do.

MR. : Fine. Will you go out and get --

MR. : Then do.

MR. : -- a police officer?

MR. : Please do.

MR. : This is not right.

MR. : Leo, get out and get the Sergeant at Arms.

MR. : Please do and I have the secret -- I'll have the legal advisor of the United Nations before you. I am appealing to you for the last time not to be partial, to allow these people to proceed orderly.

MR. : No, I'm not going to -- no. Look this (inaudible) from the hall.

MR. : We are in order. These are not -- we are in order and just trying to give a point of order that resolutions or amendments should be --

MR. : The proposal of amendment -- you may speak, sir.

MR. : (Inaudible).

MR. : Yes, sir.

MR. : I think it is a generally recognized rule of order that amendments, even though they are written on one piece of paper, they are considered as separate amendments.

MR. : That's all I -- he didn't allow me -- he was so impatient --

MR. : I know, sir, but --

MR. : I was going to offer them as a group

and then offer them separately (inaudible) his way and I --

MR. : (Inaudible) chairman --

MR. : -- cannot conduct a meeting with somebody shouting on the side. I allow him to shout if he feels better about it.

MR. : Okay.

MR. : But when he finishes shouting, we will continue with the meeting.

MR. : All right. So I beg of the chairman to apply the rule and let us have them one by one.

MR. : Fine.

MR. : Thank you.

MR. : You prefer me not to submit them as a group, first?

MR. : I prefer that they will be submitted one by one --

MR. : Very good. Agreed.

MR. : -- so that the conferees will direct their mind to each one of them separately. Thank you, sir.

(applause)

MR. : In deference to the wish of the movement of the amendment, I will follow his suggestion. Add at the end of the first paragraph, the word "states". May I have a show of hands? All in favor of the resolution? All opposed? The nays have it.

Now, let me read the number two. I'm afraid it would have been forgotten as a result of all the -- I'll read it again.

MR. : (Inaudible).

MR. : Yes. One was defeated, but I want to read number two again so that people can hear it. "Add the following two paragraphs to the preamble:"

"Conscious that the denial of human rights and in particular the right to self-determination, is one of the main causes of international tension leading to violence."

"Recognizing the legitimate struggle of peoples for the liberation of their homeland and the attainment of national independence."

You add those two paragraphs to the preamble. May I show of hands in support of the amendment? May I show -- see a show of hands in opposition? I'm afraid the nays have it.

Three, add in the third operative paragraph after the word "human rights", quote, "and in particular, the right of people to self-determination." That's the third paragraph after the word "human rights", you add, "and in particular, the right of people to self-determination."

May I see a show of hands in support of the resolution? 33 -- my count is 33. In opposition? One, two, three -- five, six, seven, eight -- the amendment is carried.

(applause)

Four, change the word "pretext" in the third operative paragraph to "justification". Change the word "pretext" the -- in the third operative paragraph to "justification". Show of hands in favor of it. One, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen -- Opposed? One, two, three, four -- I'll have to ask for a standing count, please.

Those in favor, stand please? You count on this side. You count on that side. Those in back, if you're not voting, please step out. I don't know. Excuse me, are you wearing a badge? Yeah? You are wearing a badge?

MS. : Forty (inaudible).

MR. : Forty-six?

MS. : Forty-seven.

MR. : In favor. All opposed please stand.

The amendment is carried.

MR. : Very good.

(applause)

(Inaudible discussion.)

MS. : Is this one passed?

MR. : This one passed. Is this yours?

(Inaudible discussion.)

Okay. I have another -- yes, sir?

MR. : With all respect, sir --

MR. : Yes, sir?

MR. : I have noticed that more attention has been paid to counting properly regarding the two second amendments. May I, sir, since the two first resolutions -- the first amendments really incorporate principles of international law which is recognized by everybody, that the recount, a recount be taken regarding the first two?

I don't think that any of the gentlemen here who is adherent to international law would deny the fact that the denial of human rights is one of the causes of international tension now.

And I do not think that anyone would say that the struggle of liberation movements in order to decolonize, in order to attain their independence, is something contrary to international law and to the principles of the charter of the United Nations.

So I -- with respect, I would like to have a second count if you see so fit. Otherwise --

MR. : I must rule -- I must rule --

MR. : Otherwise --

MR. : -- against it for this reason --

(applause)

MR. : Otherwise, sir, I shall -- I shall be forced otherwise to carry this discussion into other places where if we --

MR. : Well, you can take it to --

MR. : (Unintelligible) then it would be much better.

MR. : You can take it to the resolutions -- and I tell you why. I must rule against you because some people have left the room and I don't know whether they are for or against it and I don't think --

MR. : Those who left are not -- are obviously not interested, sir.

MR. : I don't know. I don't --

MR. : Those interested are --

(applause)

-- still sitting with us here.

MR. : The chair rules against you. You may take the proposition to the floor. This is not final. I must say that neither the adoption of your amendments nor the rejection are final. So they are going to the resolutions committee.

MR. : I bow to your opinion, sir.

MS. : All right. Now, we have one more set of amendments to resolution number one. When it says "Article 1", I assume that's the first paragraph, numbered paragraph, after the word "acts", delete the rest and add "violence, whether committed by individuals, groups, or state agencies. Am I reading it correctly? I don't know whose writing this is. Is it correct? Am I reading your writing cor-

rect? Is it your writing? I'm trying to help you now. Am I reading your writing correctly after the word "act" or delete the rest and add "violence, whether committed by individuals, groups, or state agencies. Is that your-- is that your language?

MR. : Mr. Chairman, since the word "states" have already been --

MR. : No. I'm asking you a question. Just answer it.

MR. : I am withdrawing. The resolution has --

MR. : Very good.

MR. : -- already been acted upon.

MR. : Fine. Now, how about --

MR. : There is no point in proposing it again. Please hear us, we are human beings to be recognized. We are trying to help you to run this meeting in a better manner.

MR. : Having heard that noise on the left we will continue. Are there any other -- okay? We have --we will now vote on the resolution of Mr. Miltey as modified by the amendments which have been just adopted.

All those in favor of the resolution as modified and that is three and four were approved. One and two were turned down. All those in favor? Stand -- I must ask for a standing vote.

MR. : (Inaudible).

MR. : Well, you're a delegate aren't you?
Are you a member? Are you here as a --

MR. : (Inaudible.)

MR. : Okay. Fine. Then you can vote.
Voting on the Miltey amendment as modified.

MR. : That would be -- explain to everybody
what we are (inaudible).

MR. : We are voting on the complete resolu-
tion as modified. Very good.

MS. : You know, there's a lot of us came
in here that didn't get the material. We don't know what's
going on. We'd appreciate it if you'd read what you're talk-
ing about.

MR. : Fine. Very good.

MS. : In that department.

MR. : Very good. I've been asked to read
the Miltey resolution again. I will read it now and I will
try -- I will read it. I will try to read it with the amend-
ment. Is that fair enough? Okay.

Extremely -- just one moment, sir.

(Inaudible discussion.)

Extremely -- I'm now reading the Miltey resolution --
"Extremely concerned about the spreading of acts of violence
committed by individuals -- committed by states, individuals,

or groups against innocent people about the serious impact that these acts have or are likely to have on orderly international relations."

Paragraph: "Mindful of the efforts and progress which has already been made in several fields in order to prevent and combat such acts; conscious of the still existing gaps in the results already achieved and of the lack of progress in order to ban all of the forms of transnational violence."

"Conscious that the denial of human rights and in particular, the rights to self-determination, is one of the main causes of international tension leading to violence."

"Recognizing the legitimate -- legitimacy of the struggle of peoples for the liberation of their homeland and the attainment of national independence."

"One, urges --" yeah?

MR. : (Inaudible) sorry to interrupt but
(inaudible).

MR. : No. No.

MR. : (Inaudible).

MR. : No. Excuse me. You're right. You're absolutely right, sir. I'm sorry.

MR. : I think you are recounting, sir.
You are recounting the numbers.

MR. : No. Right. I'm sorry. I stand cor-

rected. I was -- that's true. I'll start from the beginning.

MR. : (Inaudible).

MR. : Right. "Extremely concerned about the spreading of acts of violence committed by individuals or groups against innocent people and about the serious impact that these acts have in or are likely to have on orderly international relations."

"Mindful of the efforts and progress which has already been made in several fields in order to prevent and combat such acts; conscious of the still existing gaps in the results already achieved and of the lack of progress in order to ban all other forms of transnational violence."

"Recalling that states are under an obligation to respect, protect, and safeguard the human rights and fundamental freedoms of all persons within their jurisdiction."

"One, urges governments to take the necessary steps in consultation with each other in order to introduce a national legislation and administration as far as possible; human measures to prevent and punish acts of transnational violence."

"Two, requests this organization to continue its efforts in the search for appropriate legislative guidance."

"Three, urges governments to fully respect and implement human rights and in particular, the right of people to self-determination, so as to avoid situations which may

serve as a pretext for individual --"

MR. : (Inaudible).

MR. : Oh, yeah.

MR. : (Inaudible).

MR. : Oh, justify -- right. And in particular the rights of people to self-determination may serve as a --

MR. : Justification.

MR. : -- justification-- excuse me -- for individual or group violence. "Urges international organizations and specialized agencies, each in its field, to elaborate measures so as to avoid technological progress being used for terrorist purposes."

MR. : (Inaudible).

MR. : Look, we need not adopt these resolutions. They can be turned down and everything presented to the resolutions committee. Now, that's the resolution with the amendments. Now, I must have -- yes, I will recognize you.

MS. : Just as a point of information, I noticed in your first reading before, you said you stood corrected.

MR. : Yeah?

MS. : You included right in the beginning of your first paragraph the word "state" individuals and --

MR. : Yeah, that's omitted.

MS. : -- groups. And in the second one,
you --

MR. : Right.

MS. : -- eliminated the word "state".

MR. : Right because those two propositions
were voted down. Now, we need not -- that's the resolution
with the amendments that were submitted. I've read them.
Shall we vote on them? And I ask for a show of hands. Is the
Miltey Resolution as amended adopted? May I see a show of
hands in favor? Will --

MR. : (Inaudible).

MR. : -- all right. Will you stand? Will
people stand, please? All right. All right. I think --
will those opposed -- those opposed? The resolution as amended
is carried.

(applause)

When I say "carried" it means it's now going from
this section, this work section, up to the -- yes, you have a
question?

MS. : Yes. (Inaudible) this meeting was
called for from two to five and I'm wondering whether a lot
of people have left and whether it's justified for us to
pass resolutions at 5:30. It's a point you raised before as
being improper and I'm wondering -- and I would like to at

least have the resolution go with the note that it was passed at 5:25, to the Resolutions Committee.

MR. : A note -- a note will be made of that. That's a proper note. Thank you. We will now take the second resolution. I'll read it again. That's Resolution Number -- that's the resolution that was submitted under the general orders and there's one amendment that's in paragraph two.

The amendment would require the paragraph to read: "that all states refrain from granting any form of assistance." Is that right? Is that -- "so the perpetrators of acts of terrorism and their accomplices." That's it.

What's your point of order?

MR. : (Inaudible).

MR. : That's not a point of order. Now, may I have a vote on the amendment?

MR. : (Inaudible).

MR. : That's not a point of order. You're asking for a -- you're asking for a change of the rules. I don't entertain motions. I now entertain -- I am going to entertain a vote on the amendment to paragraph two of the resolution that was submitted. It's entitled, "Recalling Resolution Number 20". The second paragraph as amended would read:

"That all states refrain from granting any form of

assistance to the perpetrators of acts of terrorism and their accomplices."

Do I have a show of hands in support of that resolution? How many do I see? Will you please stand? It makes it easier. I think that the -- we can -- that amendment is carried.

MR. : No.

MR. : No.

MR. : In opposition, stand.

MR. : No.

MR. : Then stand. The motion -- the amendment is carried and you will keep --

MR. : (Inaudible).

MR. : We will now have a vote. We will now have a vote on the resolution as amended. All those in favor, stand. All those in favor of the resolution as amended --

MR. : (Inaudible).

MR. : All those in favor of the resolution as amended, please stand. The resolution as amended is carried. The session is adjourned. Hey, Lois, forget the tape.

(END OF THE RECORDED PROCEEDINGS.)

WORLD PEACE THROUGH LAW CENTER

World Peace Through Law Conference
Washington Seventh World Law Conference
Dover Room, Tape Three

Washington, D. C.

October 14, 1975

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P R O C E E D I N G S

MR. : Now it is the time to start our topic off, computers and the law. It is a pleasure to introduce to you all our presiding officer, Mr. Stephen Skelly. He was born in England, educated at _____ and Oxford Universities. He moved to Canada in 1965; during the time of the year 1965 to 1970 he taught law at the university of Manitoba. In 1970 he joined Canadian Department of Justice as jurimetrics advisor. He currently is (unintelligible) jurimetrics. He is member -- he has been member of the Manitoba bar and chairman of the law and computer technology section since 1971. He is also chairman of Canadian Bar Jurimetrics Committee. Now, may I ask Mr. Stephen Skelly to take the stand?

MR. SKELLY: Thank you very much, Your Honor. The program today will be in really two parts, the first part dealing with what we've chosen to call the transporter flow of -- or what I choose to call the transporter flow of personalized data . The title in your program is a little deceptive. I have to admit that I don't understand it much (unintelligible), but what we're concerned with in that part is the flow of personalized data across international boundaries.

And the second part will deal with the problem of computerized information retrieval, and that in two elements,

CONTINUED

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one part dealing with computer language and the other part with computer systems.

Now, we'll be roughly dividing the time between these two parts 50-50, although one of our speakers in the first section has been unable to attend. You've received his paper. Mr. Russell Pipe, he's unable to attend, unfortunately, so that we may spend a little more time on the second part of the program than on the first.

I'd like to start off by saying a few words about the question of transporter flow of data. As chairman I get the opportunity to speak before anyone else speaks, and I may well be able to steal some of the thunder. I will try not to, however. I'm not sure how many of you are concerned with or have thought about the problem of the flow of personalized data across international boundaries. By personalized data I mean data which can innately identify an individual and which raises questions of protection of that individual's rights.

Now, the topic of transporter flow of information can be looked at in the sense of personalized data, or it can be looked at on a wider basis; that is, the effect of having information relating to a particular country located in a data bank in another country. The overall problem can relate to questions of access to that data; possibly the relationship between two countries may change. It may be

collected in a way which is not consistent with the social attitudes of the other country. Interpretations may be placed on it which may not be consistent with the interpretations that we replaced in the other country, and also many other factors may come into account.

For instance, if data banks are maintained in one jurisdiction, that must mean that jobs have been lost in the other one, because the people who are working on it are people in the other country; the people who maintain it, the people who develop the systems, the technology and so on, is done outside the one state, so that these are all factors which cause one to consider this question.

The reality, however, is that computer systems are extremely expensive, that data banks are difficult and expensive to generate and to maintain, and therefore for economic reasons it may be necessary for a country to accept the fact that some of its data will inevitably be stored in another jurisdiction. We have an example between Canada and the United States where a national or a North American data bank of information on the state of health of individuals is maintained, I believe, in Boston, and all of the insurance companies in North America issuing insurance go to that data bank to get information.

Now, if Canada, for instance, was to say this is not going to continue, these -- the information about Canadian

subjects must be kept in Canada. The economic consequences could be quite serious. The cost of maintaining two separate systems could make the price of insurance in -- possibly in Canada -- much higher. So these are the kind of questions which have to be considered. You can't simply say all flows of data will be terminated. It's an economic consideration.

Now, talking about the privacy area just very briefly, and that is the protection of the rights of the individual, where information about him is stored in the computer data bank, you have the initial consideration, what rules are there to protect him within his own jurisdiction. Does he have any kind of protection? The kind of protection that I have in mind is is he -- is it possible for him to require that he be told when information is collected about him and stored in a computer data base? Is it possible for him to get access to that information to determine whether it is accurate or whether there are errors? Is it possible for him to challenge it and either have changes made to the data or at least some notation that he is unhappy with particular information that is stored there. He feels it's inaccurate.

Now, these rules may exist within your own state, for instance, but if information about you is stored somewhere else, those rules may be of no help to you, because the territorial restrictions of the domestic law will mean that the law of your country will not have any effect on the

procedures which take place in another jurisdiction.

The -- an example perhaps I could cite to you, the situation may exist that in the other jurisdiction, a foreign state, there are laws. There are laws which protect the individuals of that state, but those laws may be of no assistance to you. And I would just give you an example. Many of you may be aware of the privacy act of 1974 in the United States which deals with federal data banks. Now, that gives an individual, and I want to talk about the word individual in a moment, it gives an individual many rights in terms of knowing whether data exists, regulating how the data is used, having the opportunity to challenge information that's stored.

But the word individual is defined as being a citizen of the United States or an alien lawfully admitted for permanent residence. So that if, for example, a Canadian had information stored about him in a federal data bank, he would have no rights under that legislation. Now, these are the considerations that one has to take into account when looking at this problem.

Now, I've just skipped over the -- some of the points to give you an overall impression. Mr. Katz and Mr. Hamilton will be speaking in much greater detail on these matters, and although I've perhaps stolen a little of their thunder, I think I should not steal anymore. But the essential considera-

tion is to balance the interests of the state against the economic considerations which determine how and where this data must be stored. On that note I would like to introduce our first speaker on the topic; Kenneth Katz is a member of the Department of Communications of the federal government of Canada. He's a senior policy analyst. He was involved with the study on computers and privacy which was carried out within the federal government. He has a B.A. from McGill University, an LL.L. from the University of Montreal, and he is a member of the Montreal -- of the bar of Quebec.

I would like to invite him now to take the podium and speak to us about transporter flow of data. Mr. Katz.

MR. KATZ: Thanks very much, Steve. I must say that I'm very happy to be here, and I have two confessions to make. For one thing, I'm suffering from a terrible case of jetlag, having just come from Europe, having had a vacation up until yesterday, and, secondly, I think I'm suffering from partial blindness because of these lights. I can't read my notes. I wish somebody would do something about that.

(Laughter and simultaneous remarks)

MR. SKELLY: Is that a light there?

MR. KATZ: Oh, is that a light there? That'll help enormously. No, it doesn't work. Oh, it's okay. That's okay.

(Simultaneous remarks)

MR. KATZ: The power source is probably in Canada.

That's (unintelligible).

(Laughter)

Let me say two things by way of introduction as well. One is I apologize most profusely on behalf of Mr. Allen Gottlieb, the collaborator on this paper that we submitted, who can't be here but would have very much liked to have been here. He's presently in England on leave from his duties at the Department of Manpower and Immigration in Canada, where he is a deputy minister. So obviously he can't be here. And a personal conveyance of regrets from Russell Pipe, who was slated to be here, but arrangements in The Netherlands have prevented his coming.

He's asked me to cover some of the details that he put into his paper, but Steve just did that and covered a lot of the details that I was going to say, so -- oh, that works now.

MR. SKELLY: How's that?

MR. KATS: So perhaps I'll spend a few minutes.

Je veux _____ aussi _____ la bienvenue aux deleges et invites qui vient des pays de langue Francaise, and I don't speak any Spanish, and I'd like to welcome the Spanish speaking delegates as well. I think for the rest of my paper I'll confine myself to English.

In the short space of time allocated to cover this issue of transporter flows of personal data, I thought

perhaps I'd just stick to the salient points that put into the paper that we submitted. I don't know if it's been given any widespread distribution. I don't know how many people have read this, so it may be boring. They have?

MR. : They have.

MR. KATZ: They have, right. So you'll know what I'm talking about. If not, I'll try and go slowly. I've been accused always of speaking too quickly up here. I'll try and pace myself. Now, you see we have more time than otherwise we would have because of Mr. Pipe's absence. But we're dealing here with a subject that's becoming increasingly important in Canada. This is followed from our concern of privacy in computers which has existed for about three or four years now, leading up to, hopefully -- we keep our fingers crossed -- legislation on the topic.

But the issue of transporter flow has arisen now as a very important subject of debate in the confines of the Organization for Economic Cooperation and Development, the OECD, and in their bureaucracy, in their hierarchy they've devoted a specific working group to looking at this issue, a subgroup of the -- what they call the data bank panel composed of experts, so called, who met in Stockholm in March of this year to consider this issue for the first time.

And I must suggest that we came to Stockholm principally as a result of the events that have transpired in the

last two or three years in the -- many of the member countries concerning the development of privacy legislation. The issue, of course, is that, once you got domestic privacy controls, what happens with respect to data that's stored outside of your borders, where the limits of extraterritoriality exist which place these impediments against protection of data outside.

So whereas one could have sufficient and effective privacy controls for data stored in the country that has law, a possibility, I suppose, was taken to exist that data havens could come to be created in certain countries that would not or could not or whatever, wouldn't have privacy controls, in order to avoid the rigors of newly enacted domestic privacy law.

And this is why we came together in Stockholm, to fashion a project on an international basis, on a cooperative basis under the auspices of the OECD to look at this problem for the first time. And it's becoming important in Canada principally because of our involvement there. I'm getting a signal.

(Simultaneous remarks)

MR. : Slow down.

MR. KAPF: Oh, I'm sorry. You see? It's true. It's true. As I say, because of our involvement with the OECD, it's becoming important in Canada, but also because

Canada is in a very special position with respect to this issue. And I'll go into this with respect to the problems in my expose of problems that are associated to the -- to this issue of transporter flows and in looking at the actual sources for it you'll begin to see why Canada is in this particular problem, has this particular problem, as I say.

We attempted to do three things in our paper. One is we wanted to give an expose of how and where and why flows of personalized data, international flows of personalized data occur. Secondly, what we wanted to do was analyze to some extent some of the problems and issues associated with those flows. And, thirdly, what we wanted to do was to look at some international, which is to say multilateral rather than unilateral, solutions to some of the problems that arise because of the flows of personalized data.

Now, when we talk about a flow of personal data, it has a number of meanings, and one can attribute whatever meaning one wants to, depending on the context you use. In the wider sense, in the nontechnical sense a flow of personal data can involve data communicated by telephone transmission involving private conversations or personal correspondence communicated over a border, assuming that there is data conveyed in, a letter or in a phone call. And one can look at phone calls, telephone conversations because it's electronically transmitted as being relevant to the issue at hand. Well,

we can exclude that.

And again in a wide technical sense this time the flow, the term flow will incorporate information in movement. That is to say communicated by electronic or electromagnetic transmissions, and this can also include, in this case it can direct or terrestrial broadcasting. It can include satellite transmissions of remote sensing of Earth's resources, for example, and in an earlier paper that myself and Mr. Gottlieb collaborated on we talked about such flows. And what we did in that case was we tried to amalgamate flows associated with direct satellite broadcasting with remote earth sensing by use of satellite technology as well as personalized data. We tried to amalgamate this into a comprehensive whole, into a global universe of transborder flows and then try to give some definition to problems that are associated with it and potential ways and means of dealing with it at the international level.

This goes way beyond the scope of what we had intended to talk about. What I intend to talk about here -- we're not sure at this time whether a global solution can be introduced to cover all flows of data that go across national boundaries. We're not even sure whether a comprehensive or a specific solution can be found at the international level to take care of just personalized data flows, but in any event we're only talking about here a flow which is intended to

refer to the movement of personal data, movements of personal data which are ultimately linked to the phenomena of data storage, data manipulation, data utilization in the context of specific applications of computer technology.

And this also includes, by the way, physical transport of-- it can include physical transport of data across national boundaries simply for reasons of processing. Then, given this frame of reference, we've tried to point to a number of sources giving rise to flows of data across national boundaries. Now, this list, this taxonomy is by no means comprehensive. It doesn't claim to be. But we wanted to signal, to bring to the attention of the readers specific contexts where one can look to a flow of personal data as a result, and we were able, I think, to point to four specific cases. Now, the primary source, giving rise to flows of personal data across national boundaries is the specific context of particular business relationships that are entered into by private entities on either side of a national boundary.

What we mean here is that flows of data is a bi-product of the flows -- of the flow of goods and services that occurs within the normal daily routine workings of an integrated economy, a mixed -- an economy in which there is a large presence of foreign ownership, for example. Now, in the case of Canada the high presence -- the high penetration of

foreign control over various segments of the economy accounts in great measure for the high incidence of extraterritorial data flows.

Now, this can arise in the context of a multinational corporation doing business from its head office to its affiliate located across the border. It can also occur outside of that context, when you have one company supplying or buying from a company outside of the -- on the other side of the border. And when you have a common market situation in some -- in terms of some commodity or a preferential tariff agreement, this, of course, exacerbates the problem to the extent that it eases trade and encourages transactions, business transactions from one side of the border to the other.

Now, when we look at this specific context, one should be clear about something. We're not talking about a flow in terms of a particular movement as such. The term flow is really a fiction. All it really means is taken to represent the creation of a personal record in a computerized system in one country. A record is created, it's updated, it's accessed, it's manipulated or it's expunged perhaps in one country involving a data subject who's resident in another country. That's what we mean by flow in this case. It doesn't actually refer to the Telexing of data or to the remote entry of data from Canada to the United States or vice

versa or remote retrieval. It actually refers to the process by which file is created or a record is created, because it is the existence of the records and what you could do with the records on the other side, as Steve mentioned, that is of consequence to the whole discussion here.

Now, within this context of business relationships, some examples of extraterritorial files, you might say, or the files associated with extraterritorial flows of data would be insurance files, which was mentioned, credit, credit data, the files that are created in mail order houses, for example, the catalog people, for example; if they solicit beyond their border, they'll create a file or create a record for an applicant or for a subscriber to one of their -- one of the things that they sell for billing purposes, if for nothing else, and this is the same. This is true for periodical subscription lists, this kind of thing. These are just various examples. I'm sure there are others.

That takes care of the business relations of the primarily commercial context giving rise to these flows. A second order of relationships that exist on a transborder basis that accounts for transborder flows of data, of personal data, is the government to government relationships that have come to exist and are continuing and are proliferating, you might say. The government of Canada, for example, together with the federal government of the United States, by virtue of

treaty, by virtue of working agreement or other arrangements at the formal or informal level, will regularly exchange trades, ship, whatever, data on specific individuals related to such things as law enforcement, and the example here is the link between the NCIC computer here in Washington, I believe, with the Canadian Police Information Center, which is a computerized system under development now and actually underway in Canada that will deal with such things as fugitives from justice, hot cars. There are a list of particulars which are in that system.

And the CPIC, from what I know about it, is to some extent a remote entry point and a terminal into the NCIC. So there's a data flow connected there with respect to law enforcement purposes. There's also a data flow arising in terms of tax collection, tax agreements, and I can refer you to the -- it's in my footnote here -- I can refer you to the Canada-U. S. Reciprocal Tax Convention of 1936 as amended a few times in Article, Roman numerals, XIX, which actually sets out a protocol establishing for the communication of information for the purpose of avoiding tax evasion in the respective countries. This is footnote seven on page 22 of the paper. So that's a further government to government relationship involving an extraterritorial flow of data.

And also in terms of regulation of specific enterprise in some areas an exchange of information across the

border between Canada and the United States is necessary and called for when the interests for technical or economic reasons require this, and an example here exists in the Canada-U. S. television agreement of 1952, where information about television licensees or applicants for license situated within 250 miles of the border on either side will be transmitted to the opposite party for -- if not for clearance, then for information, so that there can be spectrum planning, and there won't be technical interference from spillover.

As far as Canada's concerned, the 250 mile limit takes in virtually every single television and radio station. As far as the United States is concerned, it's just a swath occupying the northern section of the country. In terms of an actual accounting then, one can say that it's worked very well to the advantage of the United States (unintelligible). But in any event, we're not here to make these comparisons. So that's the second context in which flows arise.

The third context within which one can point to flows and I mentioned this earlier is within the context of a multinational organization, but I'm not here referring to actual business decision data, sales data or payment data. What I'm referring to here is personnel or administrative data, where a multinational institution will centralize its personnel management, for example, do its personnel planning, its career planning for its executives or whatnot at a central world headquarters.

Then there will be a flow from its affiliated companies around the globe back to corporate headquarters so that placement of managers and executives can be made based upon the files that are created at headquarters. So there's that kind of flow too. I'm not sure. I can't give you any quantities with respect to that flow. I don't know how significant that flow is with respect to the total flow of data, but that certainly is a source for transborder flows of personal identifiable data.

And a fourth context in which you can look to specific flows of personal data occur within what I call semi-public institutions. Now, Steve mentioned this with respect to the hospital patient records, the transaction, the transfers in terms of those records. I have been led to believe that the actual computer system for patient -- hospital patient records is -- the program was written at the University of Michigan, from what I understand, and I think that that is a system that is used by virtually all the hospitals in Canada, at least those that want government subsidy.

And I'm not clear as to whether or not actual location of patient records is in the actual -- is in the computer situated at the University of Michigan. I rather tend to doubt it. But if it does occur, that would be -- that would be a flow there. And one further example of a semi-public institutional flow of data would occur, and you can

perhaps call this a multinational corporation within multinational unions. Some of the -- many of the unions in Canada, for example, are affiliated -- are locals affiliated to international unions which have their headquarters in the United States -- the Steel Workers, for example, and to the extent that head office in Pittsburgh requires membership lists and donations and there's a certain requirement for union dues, a stipend being paid to the head office against a list of union members, there would be a flow and creation of records associated thereto.

So these are just some of the specific areas. I think the thing, the major thing to be taken from this taxonomy of institutions, of institutional relationships is that flows of data occur by virtue of entering into a relationship. Now, the purpose of the relationship may be commercial on one hand. It can be other than commercial, but it's the relationship itself which gives rise to the flow of data that we're talking about here.

So then let's leave that for a moment and go on to some of the problems now associated with these flows of personal data arising from these relationships as I try to set them out. In dealing with this aspect of our paper we try to classify the problems for analytical purposes, to give some definition to it because it's very hard, I think, to get a grip on the range of interests and problems, the range of

interests particularly to stand to be affected by these flows.

So what we've done is we've made a basic division. Instead of looking at problems as such and calling them problems, we've tried to look at these flows in relationship to their -- in relation to their effect on particular interests, and we've tried to distinguish between interests that stand to be affected by these flows. And our basic division in our paper is between, on the one hand, micro-interests -- now, these are basically economic terms, I realize; they may not have any kind of validity, but I hope they convey what we mean -- microinterests on one hand and macrointerests on the other.

Micro -- the micro-effects of transborder flows refers to the impact of such flows on individual interests. Now, individual in this sense doesn't necessarily mean an individual, a human being, a person in this sense. It can refer to specific business interests as well. It can refer to private interests of corporations to the extent that there is an impact there, but principal in terms of micro-effects -- our principal concern here is with the issue of privacy.

Now, I don't know if you're familiar with -- I'm sure you're all familiar with the concept of privacy as it's been articulated for the last five or ten years with respect to computers, and what I mean here simply is, without going into a long exposé on what we mean by privacy in terms of

being able to examine how such flows affect privacy, what we simply mean here is that, when we talk about privacy, we look at the differences or the conflicts between the law of storage of the data and the law of the domicile of the data subject in respect of such things as third party access to that data, confidentiality provisions respecting the storage and manipulation and use of that data, secondary use that can be made of that data and personal access verification and challenge by the individual, the data subject himself, to the records about him located beyond his border.

And that's what we mean by privacy. It's describable to the variety of interests that have come to be labeled under the term privacy, and I'm sure that you know what I'm talking about there. Now, I don't want to pursue this issue on privacy. I think a lot has been made of this. I think also that the effect of transborder flows on privacy are serious and, as visible as it may seem, is not really the main issue, at least not as far as I'm concerned, and not what I'd like to focus on today.

Leaving privacy aside then, in terms of micro-effects or micro-interests that stand to be affected by transborder flows, we have one more, and that is private interests of individuals and corporations that arise because of more onerous laws in the country of storage than in the country of domicile, tending to be an impediment to access to that data.

Access to that data -- the other side of the privacy coin, if you like -- access to that data for commercial purposes, for marketing purposes, for statistical purposes, for whatever purpose that you can turn to your own economic or other interests, and this is a potential impediment or a potential effect of such flows, and the differences between the two laws, as I suggested.

So leaving -- I'd like to leave micro-effects and move on to macro-effects. I think that's primarily where our concern as a -- at least my concern in terms of my official capacity lies. I should say, by the way -- I should have said this at the outset of this paper -- that what I'm saying here doesn't necessarily reflect the views and opinions of the government of Canada, and I -- they cannot be held for this, so there's that basic disclaimer here.

But to the extent that I have an official position and we're looking at this officially, this, I think, does represent, the macro-effects does represent the priority interests that we have in this.

Now, in looking at macro-effects of transborder flows -- am I running too long? Just kick me if, you know, just pull out the cans and kick me.

MR. SKNELLY : (Unintelligible), when the lights go out.

MR. KATZ: Okay. As I say, the basic division here

that we try to incorporate into our paper just to give some analytical definition to this study, I think we can make a distinction in terms of macro-interests, macro-effects, between what we call corporate interests on one hand and collective interests on the other, all, of course, referring to the interests of the government.

But on one hand we have a range of interests that affect the government, a range of effects affecting the interests of the government to the extent that the government is a user of the technology and the data. It has policy planning responsibility, for example, policy execution, law enforcement, regulatory responsibilities, and in discharging these functions, these governmental functions, it uses the technology, it uses MIS systems, it uses personal data, and to the extent that there are transborder flows, the export of data from the country beyond the actual reaches of governmental control and domestic law, this can impede the functions, the discharge of the functions of government as a user.

In leaving that aside then, we distinguish between that and the collective interests which refer to the interests of society as a whole, of course, represented by government as an embodiment of the state, but -- and principal representative of the population, but here we're referring to the effects on the cultural fabric, the political fabric of the society of the country, the identity of a country, for

example, and I think in terms of the geography and the historical situation of Canada and the United States I don't have to say more on this, I'm sure. I imagine you can appreciate why this particular range of interests, of effects of trans-border flows of vital concern to us perhaps, more than economic or other issues that arise here.

Okay. Now, I think I've exposed -- I don't want to -- what I don't want to do is I don't want to belabor the interests of government as a user of the technology that stands to be affected here because to a great extent they reflect and represent -- they actually reflect private interests also. We can point to such things as the export of personal data reflecting credit levels, for example, the amount of personal indebtedness to the extent that it's stored outside the country and how the inability to access that data would impede the government's ability to make financial planning and to do economic policy or monetary policy.

I'm pointing to this as a potential danger, of course. I'm not suggesting that this is in fact the case anywhere, but we're looking at potential effects, of course; but in terms of the collective interests of the state that stand to be affected by the flows of personal data, I think it's a very subtle phenomenon and not particularly easy to grasp or accept, and in some discussions we've had with member countries in the OECD I found that this particular

range of issues that one must address when one is talking about the subject is by far the hardest to impress upon some of the other representatives at these meetings.

We can look at, in terms of the collective interests of the state, we can look at the economic interests of the state and its aggregate, to the extent that the export of data represents the export of jobs, as Steve has mentioned. This can, of course, affect the whole technological infrastructure for the information industry if you don't have MIS obligations which can underwrite, which can subsidize research, which can be the basis upon which the market for research and development in technology, in computers. Your -- the technological component of your information industry can be seriously affected.

But leaving aside the economic issues that arise here which are visible and tangible, the most important, as far as we're concerned, the most important, at least for the moment, element here is the cultural and social interests of the state. Now, I've been passed a note that my time is up. I'd like you to -- I'd like to refer you to, particularly if you have the paper, to page -- to pages 14 to 16 of the paper, which tend to -- which go into this issue of the collective interests, the cultural -- what we call sovereignty issues.

I'm sorry I don't have time to address some of the

possible approaches to -- in dealing with these flows at the international level. That too is covered briefly. It just remains for me to thank you very much for your attention and your indulgence and to state once again that I'm happy to have been here and to accept your questions later on. Thank you.

(Applause)

MR. SKELLY: Thank you very much indeed, Ken. I should have said earlier that the plan we have is to hear both of our speakers on this topic and then allow approximately 15 to 20 minutes, depending on the number of questions we have, at the end of this first session before we begin the second part. And I think you may well have some questions concerning possible solutions to the problems that Ken has mentioned and that I mentioned earlier, and I think then it will give us an opportunity perhaps to discuss the international possibilities of treaties and so on in this area, if you have an interest in that regard.

So I'd like now to introduce our second speaker on the topic and our last speaker on the topic, and he's Clark Hamilton, who's a graduate of the University of Iowa and Georgetown University Law Center. He was formerly employed by IBM and specialized in automated legal research. From 1970 to 1973 he was chief of nonbibliographic system development at the Library of Congress, and from 1973 to the present time has been deputy registrar of copyrights, Library of Congress.

He's a member of the Virginia and Florida Bar. I'd like to introduce to you Clark Hamilton.

MR. HAMILTON: Thank you, Steve. Good afternoon. I'd like to make a few personal comments first in relation to this first session. It was very much inspired by the article that was written by Messrs. Gottlieb and Katz, which I think is to be especially commended as being a really innovative approach, and I think reflective of the way that we as lawyers and technologists are going to have to start thinking, in terms of not just law and computer technology but really law and technology, because the technology has become so intertwined that you cannot talk about it strictly in the sense of computers any longer.

I'm going to change the focus a little bit. I'm going to talk about transfer of information, transborder transfer of information, but I'm going to talk about it not strictly in the sense of what we've long discussed in terms of the privacy issue and in terms of some of the economic impact insofar as multinational corporations are concerned; however, I will touch on that.

I'd like to set what I would call a spectrum or describe a spectrum to you of information. I do this because I want to establish this in your mind at the outset so that what I talk about after that will tie -- hopefully fit in within this spectrum. The information spectrum is composed of

what I would call a series of discrete phases. The source data capture -- someone sitting at a terminal typewriter keyboard and actually inputting text along with the codes which are necessary to drive the next phase, namely, an automated photo composing unit, going out of the classic form of bookprint technology, the printing press into what we know now in terms of that type of photocomposing.

This leads to the third phase -- you created something besides the normal medium of printing. You've created automated data base which allows you in turn to transmit that data at an extremely high speed practically anywhere in the world. And now you have something you can retrieve in many forms and present in many ways. So that, of course, aided and abetted by the revolution in communications, including high speed satellite transmission and all that that implies, particularly high speed data transmission by satellites that are capable now of broadcasting, as distinct from simply being a passive repeater.

Okay, we've talked about the matter of this transborder transfer of information in relation to the classic digital telephone line type transmission. As I noted just now, we're not talking about broad band communication, and using a new technological phenomenon -- it's been around for a long time, but it's now beginning to be felt in all of its pervasive ways, particularly in the United States and in

Canada too, I might add. This is cable television. Cable, of course, started out as an enhancement for your normal VHF frequencies for television broadcasting to catch fringe areas. But the interesting thing about cable, though, is it allows you through that cable to receive and transmit an extremely discrete, high capacity signal. You're now no longer talking about telephone conversations in terms of capacity, unless you're talking about thousands and hundreds of thousands of individual telephone lines.

You're now talking in terms of not just digital transmission of information. You're talking about image transmission of information. In the United States at the present time, for instance, there are approximately ten million subscribers on cable television. This is growing all the time. Cable television is a very common activity and growing more common all the time as far as schools are concerned, various educational institutions. The whole spectrum of audio-visual training is now being coupled under this area as well. All right, now we've taken a spectrum. We've got all of these things. We've got satellites, high capacity. Now we have broadcast satellites, direct broadcast satellites.

I would note to you the latest satellite is the ATS-6 launched by the National Space Agency in 1974. It was originally used as a broadcast for isolated communities in Appalachia and in the Rockies of the United States in the far

West, and then it was moved -- this is the other interesting thing, you move these things around. It was moved from its synchronous orbit over the United States to a synchronous orbit over India. I'll read briefly, if you'll bear with me, a brief description of what this satellite does. This was written effective before the start of the India experiment.

"India Satellite Instructional Television

Experiment -- acronym SITE -- starts operations on August 1st after many years of research and discussion. The original agreement between the United States and India was signed in 1963. NASA agreed to lend India its ATSF satellite designated ATS-6 and to operate it on India's behalf four hours daily for a year. The satellite is transmitting into six different regions containing 2,400 specially augmented receivers with seven to ten foot antennas for direct reception of the satellite signal and 2,600 ordinary VHF receivers for reception without a rebroadcast transmitter."

So we're talking about a vehicle up there that has quite a bit of capacity and power. "The Indian government is in charge of the ground segment of the program content. The Indian Space Research Organization is responsible for technical matters, and All-India Radio has overall responsibility for the programs."

In this article I will note just this one further item. I quote. "Whatever are the final achievements of

SITE, one thing is certain. If the alarming dropout rate in elementary schools could be even partially halted by the television set inside the classroom, it would be a worthwhile investment."

There have been statements made, estimates, whatever you call them, that by 1980 70 percent of the population of the United States will receive their basic education and cultural and educational continuance in media other than bookprint. Multiply that in terms of the SITE experiment and what is going up in future years in terms of broadcast satellites, and you will have an increasing population of the world being educated in this manner.

What are some of the implications of this as far as particularly developing countries? Well, they have to worry about their culture being submerged by reruns of Bonanza, and if you think this is a facetious statement, it's not. I recently attended a meeting of the International Broadcast Institute in Germany, and one of the recurring themes of the members from the developing countries there was that they are in effect inundated by this type of material. It's very popular, you know, westerns, U. S. westerns are, without doubt, the most popular form of television in the world, unfortunately.

But this is the case. There is an effect that will occur here on the infrastructure of the country. It's not

just confined to the matter of how you receive communication in a normal, commercial standpoint. You're talking about a severe cultural effect that can occur here, and, frankly, we're doing very little about it. The reason why is the technology is so far beyond us at the present time. When you really start to think about it, it starts to beggar your imagination. Law is really behind and really needs to do a lot in terms of catching up.

(Applause)

And finally, if you really want to think about it, then you can tie the technology of reprographic reproduction or xerography in with data and communications, and then that opens up still another dimension of some of the, say, technological success or world problems. What's being done in this area in terms of the law and control or understanding, maybe control's a bad word, understanding perhaps a better one?

Well, for one thing, there are international agreements. There are international activities going on at the present time which have been alluded to by Mr. Katz. A significant amount of work is being done at Unicist as far as information networks are concerned; however, I would note that most of these activities have been primarily concerned with the development and expansion of the technologies and perhaps without as much emphasis being given to what the impact is or

the potential, the how to cope with the potentials, both bad and good, of these technologies as they proliferate.

And you have to keep in mind that a lot of what we do in terms of how we talk about technology has to -- we -- we, meaning the Anglo-European, developed countries -- tend to impose our own, naturally, backgrounds and educational concepts in how we approach these things, and this may have very little effect or even meaning to other cultures equally valid, wherein the concept of privacy, for instance, might not be that meaningful, but they are concerned about maintaining the integrity of their own culture.

There is, of course, implicit in what I'm saying here a certain thread relating to my own particular area, which is copyright, and therein lies the exquisite dilemma as far as copyright and the new technologies. Copyright in effect is a monopoly. It's limited monopolies to protect the fruits of the author for a limited period of time, to allow him to control the reproduction of that material. Balanced on the other side of this is the need and the desire for the widest possible dissemination of information.

Needless to say, the copyright proprietors not only in the United States, but elsewhere in the world, are very, very much concerned about what is happening with technology and what they view in many respects is a proliferation over which they have no control, wherein their material may go into

a system, and they never even know it. But then balanced against this and the real benefit of the technology, of course, is that you are by these media able to effect a reasonable transfer of information to the greatest number of people at a reasonable cost.

At the same end as Mr. Katz mentioned earlier there is a concern here in terms of the sovereign aspect of a government wanting to be able to control not in a bad sense -- everytime you say control, as far as information, everybody says, uh-huh, censorship. But, well, that may be true, but there is also this instance again of cultural impact in terms of a country not wanting to go to a certain level as far as what they will accept and not accept as far as pornography is concerned, and these are real questions.

Now, there has been an international conference on the protection of satellite signals. It was held in Brussels in 1974. That conference was intended to literally protect the satellite signal itself, and again the conflict arose in terms of certain of the delegates saying, well, we want to be able to say or have some control over what signals are going to cross over our borders, and again we're at that problem again. Is it censorship or is it -- versus the need to disseminate knowledge and versus the right to -- an individual author to control his material?

The World Intellectual Property Organization and

UNESCO have been aware of this problem. It's surfaced in a number of conferences that go back to 1963. There was most recently a conference on reprographic reproduction here in Washington in June of this year. I'll be frank to state that it was an interesting conference from the standpoint of the exchange of views, but, as everybody agreed, this whole area's in such a state of flux that no one could come up with any meaningful recommendations as to how you could even approach this from an international standpoint.

There is a working group in Geneva that has looked into the area of coming up with standard norms for the protection of computer software, which is somewhat unrelated to this main subject, but at least it's a start in terms of trying to understand what we're talking about in terms of definition of software, and once you've defined certain basic aspects of the thing, then to determine whether or not you can protect them in a meaningful way.

Within the United States there was passed -- there was recently passed legislation in December of last year creating a national commission on the new technological uses of copyrighted works. That's a mouthful. It's called by the acronym CONTU, C-O-N-T-U. The commission is made up of four members from the area of copyright proprietors, four members from the area of copyright users, four members from the area of what they call the public and the librarian of Congress and

the register of copyrights.

The two areas which they're principally charged with in analyzing, investigating and coming up with recommendations as far as legislation are reprographic reproduction and the uses of computers -- computer communications systems in copyrighted works. The reports, the first report on reprographic reproduction is due October 8th, 1976, and the final report on computer communications is due in December of 1977.

Mr. Katz briefly talked about the matter of the multinational private-corporate network. Of course, the United States is very much part of that, as many other developed countries, but we are the developed country. I don't think our record has been very good insofar as our -- how to cope with the technology. We know how to use it. It's out there. I don't know how it's being used. I don't know if anybody really knows. You can only hope that it's being used in a rational and productive manner.

We've been described -- the United States again -- as the post-industrial or knowledge side, knowledge economy. That's what we're exporting. The question is has the technology progressed beyond the point of where we can cope with it. I think it's a real challenge, not only to the United States, but to everybody in the world, to be able to put a bound upon the technology and make it at the same time the most beneficial to mankind, but in the same instance to use it

in a rational, in a reasonable manner. Thank you very much.
That concludes my remarks.

(Applause)

MR. SKELLY: Thank you indeed, Clark, for your presentation. I think we are facing the situation today where technology is doing such fantastic things and achieving such sonderful, quotes, "goals." But I think the time has come where we have to pause and reflect on our values and what we feel we really do want and how we want the world to be and not get simply carried away with faster and faster planes, larger -- larger cars, larger whatever else, this idea that we must always progress; perhaps progress is not always in going faster or getting bigger but perhaps in stopping and reflecting and looking at traditional values.

And this is one area where the law has to obviously adjust and has to do something to reflect these views, but I think one has to be fair to the lawyer and the legislator and say the lawyer and the legislator can only produce laws that reflect what society has decided that it wants and that someone must first reflect on what it is we really want before we can make the decision as to how to enforce those things through the law. The law, after all, only tries to regulate the way things take place. It's not the origin of the idea, but it is the reflection of the idea.

Having said those few profound thoughts, perhaps I

can now invite you to put forward any questions you have on the topic that we've discussed so far. I would ask you to try and confine yourself initially to questions on OEC, how many we have. If you do have a statement you'd like to make, the rule is required that it be limited to a maximum of five minutes. Obviously, we can't handle very many statements of that kind, and this is why I would say I'd like to see if we have any questions first which our panelists can handle and then afterwards, if you would like to say something, we will try to accommodate you. Do we have any questions? Yes, Mr. Williams. I think the microphone is working there.

MR. WILLIAMS: Yes, it is working. I'd like to ask you particularly, Mr. Skelly, and maybe the other members of the panel, because we are building up a data bank, as you said, and this is really in the narrow field in reference to -- it does deal with the question of privacy. I'm going to use an illustration that a citizen of Canada wished to arrange a charter flight to Hawaii. The citizen in question was about 40 or 45 years of age. When the citizen was 17 years of age, he was convicted of an indictable offense, which had neither been known by the family and pretty well forgotten by society.

We have the law in Canada, as you know, Mr. Skelly, that the record at that age could be expunged and therefore almost like a pardon; it has some weaknesses, but I don't want to get into that. The fact is that when he reached the port at

Hawaii, out of some book the official said, now, sorry, you can't continue with your family. You'll have to return to Canada and put up another three or \$400.00 to return because you'll be returning other than a charter flight. My point is this, and I'll come quickly to it. It seems to me that you'd have to have uniformity in the domestic laws accepted internationally by countries where citizens are visiting back and forward in order to have what I would call citizenship or citizens' fair play, because this can become very abusive.

Now, on the other hand, it has good points because -- I guess it's worked both ways between our countries, because we have one of the largest borders in the world where we don't need passports between Canada and the United States, and citizens move pretty freely back and forward. On the other hand, I suppose, and that's the last part of my question, we want to protect the citizenship of each country by cooperation. We don't want, of course, to have someone coming to Canada from United States or vice versa who has a large criminal record and will engage themselves in criminal activity, and I suppose that was behind the question that stalled the citizenship and citizen from entering Hawaii, but I think when you get into data banks in any phase, I think you're stepping into a very dangerous international development, unless there has been a prearranged domestic law, some uniformity and some understanding between the various nations.

MR. SKELLY: I just would comment on that, Mr. Williams, that one of the -- there have been a number of articles written by many people trying to come to grips with these problems and to suggest what should be done, and there are about two or three things which are basic essentials. One is that some minimum standards be established for each jurisdiction, that they be agreed upon between various jurisdictions and that it be agreed that a citizen of one jurisdiction will have the right to, for example, bring an action in the other jurisdiction under the laws which exist in that jurisdiction, assuming that they are approximately the same as in his home state.

And this ties in with your comments because it, again, regulates the type of information that would be stored, the length of time it could be maintained, the question of whether records would be expunged or would remain after a certain time and so on, and I think this is probably the only approach. Of course, with any kind of international treaty of this kind it's a very lengthy process, and I think almost invariably slight differences will exist from jurisdiction to jurisdiction, but I think it is hoped that ultimately something of this kind can be developed where you have some minimum standards which exist in all jurisdictions which are agreed by all countries and that the right to come before the courts in that country and to take advantage of the legislation

in that country is not limited to people who actually live there but to anyone who may be affected by it.

Of course, you can also see the implications of that and the problems that can be created. I think Ken has something he'd like to say on this.

MR. KATZ : I'd just like to add a word. I think that in looking at solutions to these problems, such as the particular problem that Mr. Williams alluded to, there are two ways to look at this, and essentially it refines itself to one specific way. The council of Europe has been very active in the last -- over the last few years in trying to develop a common core of privacy principles that would be accepted by all its member states and then enacted in domestic legislation.

There are two ways of approaching this. I think one way is to get involved in international discussions, leading to a treaty which will embody particular privacy principles and then the countries going back and enacting the necessary ratification legislation. The other way of doing it, of course, is to agree in informal working sessions, through the OECD or other bodies, to this common core of principles to work for your own domestic law first and then bring these, once it's enacted in the member countries, to the table so that agreements (unintelligible) to treaties, for example, can be worked out incorporating, giving reciprocity,

if you like, to these domestic laws.

Essentially it boils down to the same thing because it gives you protection outside of your own country with respect to your records located outside of your country. These are just two approaches to it.

MR. WOOLLIAMS: I wonder, Mr. Skelly, if I could give my name because, for the record -- I don't know whether you keep a record, but I'm Eldon Woolliams, member of Canada, Ottawa, Canada.

MR. SKELLY: I don't know whether the -- it's Mr. Eldon Williams. Did you get the announcement? The name? Oh, you didn't get it on the tape. Perhaps you can do it into the thing.

MR. WOOLLIAMS: Well, I'll just introduce myself again. Thank you, and it'll only take a moment. My name is Eldon Woolliams, a member of Parliament from Canada, and, of course, my home basically, because I am a member, is Ottawa, Canada. And my name is spelled differently, for the record. It's W-o-o-l-l-i-a-m-s.

MR. SKELLY: Do we have any other questions?

MR. BUSIK: I'm Edwin Busik, attorney, United States C _____ office. I'd like to address my question to Mr. Katz. Having given some thought to the distinction between micro and macro, as far as the flow is concerned, at first I found it somewhat -- perhaps artificial in the sense that in

the final analysis that flow will eventually go to a certain definite entity, whether it be individual or a juristic entity. On the other hand, I find it in a sense useful in perhaps trying to develop some questions of what flow should we apply, whether we should apply (unintelligible) international law with respect to micro questions or whether we should apply public international law with the macro questions.

Of course, on the other hand, (unintelligible) would have given greater thought, as Dr. Mann would immediately point out, where shall we find the international law with the question to the micro problems. I wonder whether you want to comment on that.

MR. KATZ: I think specifically that's why we made a distinction, one of the reasons, in any case, and that is when you're looking at individual interests, the option does arise, of course, for the use of private international law remedies, and in the paper that we've presented to this conference we suggest that some of the private law remedies in terms of torts, remedies for torts, to the extent that privacy invasion can be called a tort, should be given a chance to operate, should be given some kind of experimentation to see if effective international remedies can arise there.

I personally believe -- I'm a great believer in judicial process, and I like to use the private international remedies. This is not, of course, to suggest that it's

perhaps more expeditious means of resolving complaints and rectifying wrongs. It probably takes longer. This is also not to suggest that public international law treaties and agreements don't have their place here as well, but I think that, when you're looking at individual interests that stand to be affected by these flows, just as an individual interest is affected by an action taking place wholly within a state, giving rise to actions, giving rise to remedies in the private law, I should think that there's room for this in the sphere of private international law as well, and that's one of the reasons why we made that distinction.

MR. SKELLY: Do we have any further questions?

All right. Well, there will be an opportunity later on if you do think of something in the meantime, but I'd now like to pass on to the second part of the program, which is dealing with the information retrieval aspect, and while everyone is changing seats, perhaps I could draw your attention, and I would invite the people to come up now who are speaking --
Bob B _____, Professor _____.

I'd like to say while everyone is moving around that we do have demonstrations downstairs of two of the retrieval systems that will be described this afternoon. You take the escalator down a further floor from the level you're at here to find them. It's in the demonstration area. I think you'll find them very interesting, and I would thoroughly

recommend that you attend.

Thank you. Rose, would you like to come around here?

(Simultaneous remarks)

Okay, I think we're in good shape, fairly good shape. All right, if you'd like to take your seats, ladies and gentlemen, we will carry on with the second part of the program. Il me fait plaisir presenter Professeur Orale David -- it's a pleasure for me to present to you Professor Orale David. He's professor at the Law School in Paris and in Geneva, the Grenoble School of Political Science and the Sorbonne School of Superior Studies. He's with the CNRS now, the national center for scientific research. He's also in the general delegation for scientific and technological research.

Professor David will be talking to us on the subject of language as it relates to computerized information retrieval. This is my own explanation. The law exists in words. We have to describe the law in words because it's the only way we can convey this idea to people. The meaning of words, however, perhaps unfortunately, varies from one context to another. The words in effect take their meaning from the words that surround them; therefore, when we search for something in what I refer to as the knowledge retrieval area it is extremely difficult to find with 100 percent precision

exactly what you're looking for every time when you use words as your search criterion. Now, we'll hear from three systems where information retrieval is carried out, using a computer, searching by means of words and you'll hear more about it in that context, but what we ideally require is some identifier which specifically determines what it is we're looking for and that we can be sure will exist in any location where relevant information exists.

If I could compare it to the other type of information retrieval which I will call nonknowledge retrieval, and by this I refer to the research for information relating to a definable item. For example, you may wish to know if there are any interests registered against the motor vehicle which has a serial number 1374XYZ, and you know specifically that is the serial number of the motor vehicle you're interested in.

Now, in a certain type of a computer system you could give the computer that number and say, is there anything in the system relating to that motor vehicle? And the computer will either say yes or no. And you have 100 percent precision of recall because you're able to define exactly what you're looking for and know that if that information exists, you will find it because of that identifier.

Now, this is a simplistic introduction to the paper that Professor David has prepared, which talks about looking at language, analyzing language and trying to come to grips with

ways in which we could make it more specific when we're searching. I hope you'll accept that as a reasonable summary of the paper that you're about to present. So I would like now to present Professor David to speak on this topic.

PROFESSOR DAVID: Mr. Rhine and Mademoiselle Wagner and the organization have been kind enough to translate my document into English, so I have less scruples speaking French. I prefer to do good French rather than poor English. I am part of a research group which is involved in documentary legal research. I'm particularly concerned with the lexicological side of this research. I hope that all present here are aware of legal retrieval research, which is work on existing texts, and this is what I want to tell you a couple of words about, (unintelligible) to tell you work in Medlar's system, and I'm in wartime and I want to marry a foreign girl. Can an American soldier marry in wartime a woman who is a foreigner?

Thus you have a million laws. Which is the law which you need which covers the law of marrying women and soldiers in marriage? You don't know. And the problem could be a simple one, as you said, or it could be a very complex one, as it often is in normative science. Why? Because in the exact sciences the same method is used very widely. It's used in chemistry, crystallography -- you're looking for a crystal, and you find it immediately, but in law you do not

find marriage or soldiers or anything quickly because we have a language which has not been studied very much yet. Thus, the first way of approaching this problem, the language, is to say let us look for a law which exists among a million other laws. Where is this law to be found?

Now, it's a problem of language, first of all, because you have to give this law a name, so you look into the -- put into the computer memory all the millions of laws. You give a title to each law. You make yourself a table of contents or tables of contents, and then you try with key words or a few key words, perhaps 2,000 -- there are 50,000 legal words, about, say, 40,000 to 50,000. You try to extract from these the key words, 3,000 or so, with which you can form all the rest of the words of the legal language. And it's maybe possible. We don't know. We're really in the dark. We don't know what the legal language is. It's practically a poetic language, as far as we can tell. Legal language, it's a language of the heart. The English judge holds the law in his heart, as he says, not in his head. It's true too. You don't do much with your head in law.

You have -- the question is -- obviously the problems are immense because the law is this. Look, you have an object that belongs to me or belongs to you. The law says, no, it belongs to you, but if it belongs to me, it doesn't belong to you. It doesn't belong to you or to anyone else.

In other words, all the rest of humanity is excluded. They don't own this subject, and I do.

So it's a question as between me and everyone else, and as between me and other things in the world because I would say this is mine, but that is not mine. This of it is mine. That much of it is not. So you can get involved in all the objects in the world and all the people in the world everytime you get involved in one single legal issue. So how is this retrieval to be effected? How are we going to find the legal text we're looking for?

23 countries are involved in this research, the United States making an enormous effort itself, a very great one, and there are groups of researchers in the United States and elsewhere. The whole world is looking now -- Ann Arbor, Basel, Paris, Montpellier, Lyons, Grenoble and everyplace else this effort is being made. I've been invited to Brazil, where they want to establish a new institute for the same type of research, a research involved in putting names to legal texts, to put a name to the object which you're talking about.

Now, this research involves a problem which is so big, it can be approached in two ways, either by trickery or by knowledge, through knowledge. At the present time the only knowledge it has is sort of by trickery. It is too difficult to fight with the thing itself, so the trick is to put 50,000 words in front of you, and in the 50,000, you shake

them as if they were in a sieve, let's say, and you say, ten thousand will be left. You have 50,000, and you look for 10,000 or a couple thousand anyway out of 50,000, and thus you make up a vocabulary of key words or that is the present stage, stage one, to which research has reached now.

Other stages could be contemplated, and you get to stage two. Well, stage one says I have all of the words, and now I will try to ascertain the natural key words. I don't invent any words, but of the 50,000 natural words I find the few thousand which are keys and with which I can make -- create ten others. It works but not very well. It's like you're translating a machine. It does the job moderately well but not very well.

So we get to stage two, which also is in existence, and this consists of doing more extensive research and of trying really to establish logical processes and linguistic processes and say, well, we have here a sentence we could -- let me give you an example of how we do it in the Belgian group called Creduc -- had more than 10,000 words in its table of contents, and it tried by a grammatical process to arrange them so that it would only be 9,999, so the computer would only have to have four digits.

This doesn't -- this is sort of playing tricks with the law, after all, isn't it, to try and find -- it's a bit like alchemy. Well, they weren't chemists. They didn't know

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the elements of chemistry, but they said there's only four simple bodies, air, fire, water and earth. This wasn't true. It wasn't as simple as they thought it was, since earth was as complicated as anything else, but this was -- it looked prettier, it was more -- better organized.

Now, we're doing it somewhat along the same lines, not exactly like the alchemists but somewhat the same. We're using types of logic, multivariable logic, et cetera, and we are finding things out which are very fascinating, like this Creduc group, using grammar, was able to reduce the vocabulary down to 9,999 instead of 10,000. In this way they gained one column in the computer. That's a lot. That's a big achievement.

But for jurists that doesn't mean much. You're not going to learn what the foundations of law are in this way. It's only the logicians or the linguists or even the philosophers who use these sort of systems, not the jurists. The jurists are looking -- are in group three, next higher. This is an ascending process. All right, 50,000, now cut it down to 10,000, and I'm looking for 3,000. This is the (unintelligible) appeals court which is trying to establish near 3,000 words. This is a very interesting effort that they're making.

Now, this is no longer an artificial process, but it is a fundamental, organic process which they are working on because there you will find out whether the law does or does

not have fundamental terms in it. We don't know yet if law is a conventional matter like a game of chess, in the clever or the less clever, but it is an actual reality or something which exists in the world, as we like to think it is. Esse quidam vera lex -- there is a true law in existence which is the same in Rome, the same in Athens, the same today, the same tomorrow. It is the law because it is -- reflects the essence of man. We don't know if that is the truth or not.

Only the decalog is the example we have. It's been in existence for 4,000 years, and it's good everywhere -- the ten commandments, but there is no law. As far as we know, we haven't found the true basis of the law. But we have found 3,000 words which are more basic. And how in this procedure? I said we used a kind of a sifting system, and that's how we got to these 3,000 words. I myself have done the same thing. I started this almost as soon as I became a doctor of laws. I started on this business, and I did it for six years, up until 1956, at which time I published a list of primary terms with a very complex technique of combining them with arrows and signs which made it possible to find with 28 words almost 10,000 derived words, using 28 basic words.

It's like Mendelyev's table, which has -- had 100 primary elements and with which you could work out all of the chemical compounds, iron, copper, aluminum, et cetera. You could work out all the various salts and acids from this basic

table. So I then got down to six words, person, the word will, the word to-T or to, zolen in German. Law is not philosophy. These words, like duty, are words which the computer does not understand. These cannot be processed in the computer, words like this. We don't know what this means logically. We do not know what these words contain. The word person, the computer does not understand the meaning of the human, person. He might know the Latin original of the word, origin of the word person. It's persona in Latin. No one knows where it comes from, though.

We have six possible origins for the word persona in latin now, but what is certain is that initially it meant the actor's mask in the tragic play. This was his persona. The actor put a wooden mask over his face which didn't move, and this indicated who he was, what role he was playing, but it wasn't himself. It was only a mask. The person behind it was not even seen.

So what is behind the mask? That's the question. Person is not an essential word. It's obviously a component or compound word. Ought to is also a compound word. We don't know what is underneath it. And you can sift, but you can't get beyond those words. So it's necessary to turn the whole system upside down. We started this way, but now we have to start up there and go down this way, in the reverse direction. That is to say we do what the physicists do, what experimental

scientists do, they make a hypothesis. They say, I've been a lawyer for 40 years, and for 40 years I have been practicing law, and I thus have an overall intuitive understanding of the law. I live with the law. I understand it well, so I'm going to try to say what my words are, what my essential words are, and I make a hypothesis and try to find out if it's true or false. If it's true, we can verify it, and it'll be a rich source of new ideas and results. If it's not true, it will simply die without yielding any fruit.

Okay. So now I will present a scientific thesis to you; at my age I'm a doctor of laws, doctor of philosophy, but I'm going to make a -- get a degree in basic science on the elements of law and the mathematicians are very fascinated by this. It's a thesis in mathematics that I'm writing now. I'm -- this is the same thing as the chemist did, so the basic idea underlying my work is that law is a simple science. It does not encompass the whole world. It only encompasses certain relationships among men which are simple and logical ones but have to be known even so. The rest is not part of law. The rest is words, science, religion, mysticism, philosophy, if you want, but not law.

Law is the question of who this belongs to. Does it belong to you or to me? And that's a rather simple question, more simple than the world, than the whole world. Thus one can establish a hypothesis, and I'll tell you what my

experience is. I made this hypothesis, and for almost 30 years I have been doing experiments on the basis of this hypothesis which has been in existence since 1948. I did initially the earlier way, and I found certain words which gave me ideas, but then I abandoned this whole approach, and I made a hypothesis. You may have read the book by Gino Lambrosso, where he describes how Gino Lambrosso discovered criminology. He discovered the whole thing in one night. He looked at 360 skulls of criminals, and in one night he had a wonderful idea of what the origin of criminality is and criminology should be based on it. We're still living with his ideas.

What he said initially, of course, none of it has existed, but it was a beginning, and a lot has come from it. And very likely the same thing will happen with mine, but I think it's necessary to make a beginning anyway. We're running a risk, of course. If it's good, all well and good, but if it's not, then we'll try something else. In any case, that's the way things were done in geometry. You say that you could have succeeded in geometry with one set of parallels, but then _____ came along with a wholly different type of geometry, and he found out that his geometry was better than or different from Euclid's.

And everything which Einstein did came out of the second type of geometry. Since the old logic was not valuable for law, you ought to try new logic perhaps. Anyway, it's a

good idea to start. I have published my thesis in science, and starting in November a number of people in France who have told me that we will try to refute you or find out if you are correct. This is the supreme court in France and the supreme administrative court are going to work on my basis of my thesis, and we're going to establish a group. I thus announce to the birth of this group, which in two or three years is going to publish the results. It does exist already now, though.

Have I got still some time? Well, it's very important too that this leads us into science. It is no longer a philosophy of law or purely personal approach to law anymore. If it's a science, that means it's valid for the whole world. Law is the only thing which enables people from different countries to understand each other. You understand me and I understand you. We're talking the same language, just as with computers. When you're dealing with computers in different country it's possible to speak the same language.

That is a tremendous step forward. When the computer understands what's being said, and I think the computer is going to have much better results in bringing countries together than the philosophers have ever succeeded in doing. It's perfectly possible to talk with one another when you have computers, and I want you to understand what I have done because it can be computerized, and I understand what is being

done in Pittsburgh, Rome, Ann Arbor and everywhere else, even Canada. In three days I'm going to Canada to see Mr. McKay, who in Montreal is establishing a bilingual English-French system which is valid for both cultures. I find that this is another step forward of extraordinary importance. An Englishman can speak to a Frenchman. That's impossible right now. You don't understand my law, and I don't understand yours, because I did French law. I don't know what it is you're doing. And you did English law. You don't know what that is either, and thus we can't possibly explain ourselves one to the other. It's very simple.

So the question, is it possible -- the real question is does this new science exist or does it not. If it exists, it's very important, not only for law itself, but it's important for science as a whole and particularly for theoretical physics, which is going to discover new atoms, because if there are such elementary particles, these elementary particles would be true in every country, just as the electron is -- exists just as much in one country as it does in another.

So we don't know where this will lead us. Starting with Mendelyeev we had atoms. With Boer we got electrons and protons.

(End of proceedings as recorded.)

WORLD PEACE THROUGH LAW CENTER

World Peace Through Law Conference -
Washington Seventh World Law Conference
Dover Room, Tape Four

Washington, D. C.

October 14, 1975

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P R O C E E D I N G S

MR. : Clearly our laws will not be the same as the Newtonic laws, nor will it be the same as the laws of microphysics. That's not good enough. But there are some uncertainties even in microphysics. But in law there cannot be these uncertainties, because scholars talk about liberty. We've even had fights, fighting in France over the question of liberty and what is it. We don't really know what it is, actually.

It is something. It's in the world. It is real. It is. But what it is, we don't know. So the good way of approaching this is to go in the simplest way through the question of language. Does the computer understand my sentence? If the computer understands my sentence then I am understood and I am happy, and I can explain myself to everyone.

Now, there are some groups here -- I don't think that many different groups came this year. Other years there have been many more documentary research groups than this year, but if there are any new ones I would like them to tell us who they are, and write to us, and give the names and addresses to one another so that we can get in contact with them and we'll know what is going on here and there in the world, so that we can verify one another's work.

You will find my address on the document. Write to

me and I will tell you what I'm doing, and you tell me who you are and I'll be glad to be in contact with you, since that is how mathematicians work.

In Princeton, for example, they're all in the same building, and they're doing some tremendous work. The legalists cannot talk with one another yet. But -- and if you want us to be able to talk with each other it's necessary for us to have our language. That's all I have to say. Thank you very much.

(Applause.)

MR. : Merci Beaucoup, Professeur. I say that's a very difficult but very interesting topic. We'll continue with the next speaker, who is Mr. Page Bashear. Page is chief of the legal information systems group, U. S. Department of Justice. He is a member of the bar of the Commonwealth of Virginia, a member of the advisory committee on liaison of the ABA section -- no -- on liaison of the ABA section on science and technology. He is in charge of the department's jurist project, which he will be speaking about today, and I note he says "amongst other responsibilities." I think that's just to build up his status, or something.

Paige has some slides that he's going to use, as a part of the talk, and I draw your attention again to the fact that there is a demonstration of this system and of the system Alexis, which Bob Bennett here will be explaining in

a moment downstairs in the exhibition hall. Those demonstrations are on for limited periods. I think perhaps Paige and Bob will mention the times they're on, and so on, so that you will get an opportunity to see them.

So these three presentations now will deal with actual retrieval systems which are in operation, and which will give you some sort of perspective of what is taking place today. I think I need say no more than introduce Paige Bashear.

MR. BASHEAR: Thank you, Steve. Professor David, however many elementary particles you find, I think we'll be prepared to count however high you go, as compared to the _____ approach.

MR. : (Inaudible.)

(Laughter.)

MR. BASHEAR: The Department of Justice has had a continuing interest in advancing the use of computer technology for the automated retrieval of legal information. The knowledge gained from the resulting efforts from this interest, coupled with the increasing availability of collections of machine-readable legal information, seem to make it recently both advisable and timely to evaluate the utility of these capabilities for practicing attorneys, at least within the Department of Justice.

Accordingly, the principal objectives of the evaluation project, which I will try to describe to you as quickly

as possible, were to evaluate the utility of automated retrieval systems for legal information, and to try to determine which legal materials are best suited for automation, once again, within the context of the Department's activities.

In about 1970 the Department of Justice began its initial flirtation, if you will, with development efforts for an automated research system in the area of legal information. We experimented with various systems designs and various data base contents during the years approximately 1971 through 1973, and these experiences tended to identify certain key elements of systems design, both in the area of software facilities, functional capabilities, and in the areas of the communications techniques that should be used. And having the benefit of these experiences, we then set about to design and program a product which could -- which would reflect this knowledge gained.

This effort culminated with the present jurist system which became operational in about July of 1974. At about the time that we were nearing the completion of the software efforts it became -- was also becoming apparent to us that the cost of acquiring data bases was not an insignificant one, and both our experiences and the experiences of sister projects such as the project flight in Denver, with the Air Force, and our own keyboarding experiences, tended to indicate this. So we thought that it might be well to determine once and for all

whether indeed there would be a utility for this vast investment, and that was the underlying motivation for our evaluation project.

At about the same time it became known that there was a private firm engaged in a similar course of development which had recently created a significant federal statutory and case law data base, and it was decided that the Department of Justice evaluate the utility of automated retrieval systems for legal information using this data base, which I'm sure Bob will be prepared to tell you a little bit more about. The system was, of course, the Lexis system, from Mead Data Central, and at the same time, to evaluate the utility of our own internal work product and attorney prior effort data bases which we had at the same time been acquiring.

The preliminary conclusion that I could draw now -- and then I'll try to get into a little bit of detail -- is that automated legal research has been well-received by the Department's attorney's as a tool for legal research. They have successfully applied the techniques to a wide range of research situations, and a large number of legal research problems. The attorneys have reported that they can get higher quality research using these techniques, and that they can achieve a significant time savings as well when using the computerized research facilities.

In fact, a very large percentage of the surveyed

attorneys recommend the Department continue with some form of automated legal research.

Just a little bit more background before we get into the slides. First, we provided access to two types of data: one, the case law through the Lexis service, and the other, departmental guideline materials and the prior effort of Department attorneys, as I pointed out earlier. Access to the case law materials was of course provided through Mead's Lexis service, and to the latter through the Juris software. The two systems are separate, complex computer systems that make the text of documents used for legal research available for searching and review from a central source. Both systems are called on-line computer systems, which simply means that the information can be retrieved from the computer's data base -- and I say this at the risk of boring some of you -- by means of a telephone call.

Actually, the telephone call establishes a connection between the central storage place for the information and the outpost or computer terminal from which the request for documents can be made. The terminal is composed of a bloc of typewriter keys, and sometimes a set of color-coded command keys, and a video screen, and frequently a printing device accompanies the terminal so that hard copy records can be taken away of search results.

A researcher uses the terminal by typing in words

used in the text of a document, and then using a command key sends this data to the terminal -- to the computer. The request, of course, travels over the telephone line, and the computer responds with a set of references that would tend to meet the criteria specified by the user, and of course this all happens in a matter of some seconds.

The documents can then be reviewed quickly at the screen in a variety of formats, such as just lists of citations, or reviewing of the full text of possibly relevant materials, or viewing windows surrounding interesting words used.

The data bases during our experiments were accessible from the very same terminal, and the distinction was made simply by calling one telephone number as opposed to the other in order to reach the computer which had the data base of interest.

Now, let me just -- if I can find the mechanism -- there we go. Go quickly. We surveyed the users of about -- we surveyed about --

MR. : Let's see whether we should try to dim the lights, or -- can everyone see, or would you like the lights dimmed?

MR. BASHEAR: In case you can't see, I will attempt to describe the slides as vividly as possible.

We trained perhaps one-fourth of the attorneys --

well we -- let me put that another way. We trained perhaps between 800 and a thousand attorneys in the use of these techniques. In a two-day --

There you go. In a two-day program on each system, the Juris and the Lexis. We surveyed approximately 200 of them based on approximately the same distribution as was exhibited by our user statistics, so that as you can see this slide indicating the distribution of participants has the number of participants surveyed on the ordinate, or the Y axis, and the distribution, the numbers of individuals at each level of usage.

For example, there were some 85 to 90 users who used the system one to twenty times during the eight months of -- that the system was available, and there was a group of about 15 -- I don't know whether you would call them fanatics or what -- who used the system approximately a hundred times during that -- or more than a hundred times during that same eight-month period. Enough of that.

This is just a little demographics, if you will. The Assistant United States Attorneys are attorneys who are stationed in field sites remote from the Department of Justice. There are 94 such principal locations, and some of them have ancillary locations amounting to perhaps as many as 150 sites. Other trial attorneys accounts for -- attorneys who are stationed in the Department proper in Washington, and who

also have not only review responsibilities and policy making or policy recommendation responsibilities, but also have responsibility for litigation. And other attorneys, or non-attorneys, would indicate those either assisting in legal research or else involved in review of appellate briefs or supervision, that sort of thing.

This slide is just intended to represent that usage did go up across the months as we trained more and more individuals. The breakout is the outlined bar for each month is a representation of the sum of the field office users indicated in the solid bar, and the Washington users indicated by the cross-hatched bar, or the diagonally crossed bar. As you can see, by the end of the period we had had 555 different individuals, according to our records, who had actually attempted to use the system more than once. In March there were some 420 or so such users.

This slide is simply intended to indicate the total number, total amount of usage on a monthly basis. The total number of sign-ons for the month of March, which is the last month for which this slide was prepared was something on the order of about 2700. There were some 13,000 to 14,000 actual sign-ons, according to our -- for the two systems, according to our statistics.

This would represent the total number of computer hours used for the two systems across the time. You can see

a circular -- well, I won't say a cycular trend, but you can see the drop off in December and February which in this country are either a holiday month, for December, or a short month, for February, and I guess a similar effect in most other countries.

But the cycular trend of usage is on the increase.

This is an attempt to posit the same thing on the basis of an average type of usage per attorney. You can see the novelty effect there at the beginning, plus other types of experimentation, showing average usage per attorney fairly high, but as the novelty wore off and as users began to be more serious about these techniques, even though we were adding more and more individuals each month with the requisite training, nevertheless, the usage tended to flatten out to about six -- somewhere between six and eight attempts per month to use the system.

This is the same sort of slide based on the number of hours on the average that a user would make use of the system during that same month.

So to rehash the past two slides, number one, so-called average attorney will use the system six to eight times per month, and he'll use it for a total, perhaps, of three -- 2.7 or so hours per month.

This is a distribution of sign-ons. As you can see, those who sign on less than twenty times number very high.

Those who sign on more than 100 times signed on for -- accounted for a total of about 3,000 of the sign-ons, and then there was a distribution in between.

There are some other interesting statistics associated with this, and it seems that the older the attorneys get, the more they use it. Excuse me, the less they use it. Until you get to a certain point, and then the really old guys really use it a lot. I don't know whether that means their eyesight is failing them for searching in the books, or what, but there is the --

Maybe they're just looking for their names in the cases.

We also asked a set of questions in our survey, such questions as this: should the Department of Justice continue to provide automated legal research? And basically the answer is yes. It does have sufficient benefit that it should be continued on the premise that it will become, you know, ever more useful as these services improved and as greater facility is achieved in the use of it.

But no one was suggesting that one was a substitute for the other. Well, at least they're not suggesting that automated legal research is a substitute for the books. The two tend to complement each other.

There was a very emphatic sense of time saved, depending upon the research situation, of course. There is a very

dramatic time savings, obviously, when a case is in litigation and perhaps in court, and there's a 15 to 20 minute recess and you've got a summary motion, a motion for summary judgment staring you in the face and everything says that when you come back from that recess the judge is going to lower the boom on you, and you can find a slip opinion that hasn't gone into the advanced sheets yet, and it -- you know -- raises a flag to the judge, and at least gets you past the summary judgment stage.

You can see there that the percentage doesn't add to 100. The reason for that is just to account for the qualification, the little hazy area there is intended to let you know that there were users who, you know, sort of wallowed about a bit in their answers.

Here's an interesting slide, I think, because it says that a large percentage of those surveyed -- and their -- the survey tended to reflect users -- seemed to indicate that automated legal research could have an essential effect on the quality of their legal research. We'd like to look into that a little bit more. We haven't done so. But we'd like to find out more precise reasons why that could be the case. But an extremely large number of individuals consider it to be at least helpful. And of course this slide sort of follows in that most of the individuals considered it to be a useful research tool.

The types of materials available that were not available -- available for legal research in general, which were not available and which it was indicated would be beneficial to the users, were these, and they tended to fall out into the categories which you might expect; decisional materials, statutory materials, departmental prior work product and guideline materials, and other. Now other indicates such things as the use of the computer in specifically case-related files such as in a case involving protracted litigation in which there is a large volume of documentary evidence which has to be controlled, a large anti-trust case, for example, of which we are assisting in several, criminal prosecutions, even. That sort of thing.

This slide would tend to indicate the locations of the outlying sites which are served, and not only are they distributed geographically, but they're also distributed in terms of the character of the office served. Large offices of the Department, such as the New York office and the Los Angeles office, which have say 60 or 70 attorneys, if I'm correct there, for Los Angeles, and over a hundred attorneys for New York.

That concludes the slide presentation, so if you want to turn the lights up you're welcome to do so.

I would just say that the Department is heartened by our experience. Of course those of us who have been with it for a long time knew all along that it would be -- have

that effect, and we are -- you know, we're gratified by that. Our work is -- you know, is just now really beginning, because having learned -- or having achieved the confidence in our efforts I think that we have now begun the task of charting a course for the future. If anyone is interested in discussing any of the more detailed aspects of what I've presented here -- and there are a lot of interesting aspects to it -- several of our people will be downstairs from time to time during the remainder of the conference. If you can find Bob's display, the Mead Data Central Lexis display, you can find us, and vice versa. We're conveniently situated relative to each other.

And we are giving away peanuts, Bob. At least we did yesterday, and we'd be most happy to discuss these matters with you. Members of our training staff, who have had a great deal of contact with our users, and who do have the kind of feedback from the users that's always of interest, will be there, and there will probably normally be one member -- correct me, Dr. Mitchell, if I'm wrong -- of the technical staff around also, and he'll be happy to answer questions in that regard. Each individual will not necessarily have the whole picture, so you'll get whatever that particular technical individual is most competent in as regards the project.

Thank you very much.

(Applause.)

MR. : Thank you indeed, Paige. Our next speaker -- or before I come to that, perhaps something that I'd meant to mention earlier, but which I forgot, Professor David referred to the work of the court of Concession in Rome, and we do have some certain number of copies of a description of the progress which has taken place in this project which was described at the World Peace Conference in 1969, I think. but we have some follow-up papers describing that.

The Thesaurus, in fact, is not 3,000 words, but 2,500, so I think it's a remarkable situation that one can reduce down to 2,500 all the things that you want to describe, or you can describe them in 2,500 words. But there are copies of this, a few copies available here, and I believe there are more copies available down in the demonstration area where the other papers are presented.

I say that while I remember it.

Our next speaker is Robert Bennett. Bob is vice-president, planning, legal affairs, with Mead Data Central, Incorporated, who operate the Lexis system, and Lexis was referred to by Paige a moment ago. He's a JD at the University of California Law School, member of the California State Bar Association, and the U. S. Supreme Court Bar. He's also a member of the section on science and technology of the American Bar Association.

Bob is going to speak to us this afternoon on the

Lexis system. Bob.

MR. BENNETT: Mr. Ruben, the president of Mead Data Central, had planned to be here and make this presentation. A mishap befell him over the weekend and he was unable to travel, so what that means, in effect, is that I am a last-minute substitute. That may rebound to your benefit, however, because I can assure you that will make my comments much shorter than they would have been otherwise.

I thought I would try and accomplish two things during the time allotted. One is to give you an up-to-date report on the progress of the Lexis service, and second, to attempt to express our views -- that is Mead Data Central's views -- based on several years now of practical experience in the marketplace concerning the proper mix of elements in developing a computer-assisted law research system.

Lexis is categorized, as Paige indicated, as a high-speed, full-text, interactive system, and Paige has outlined for you pretty much what that means. We provide a total service. That is we install in a subscriber's office a cathode ray tube terminal, a custom-tailored terminal. We maintain it. We service it. We train the lawyers how to use it, and whomever else might be using it. We provide the libraries available in the Lexis data bank from 9:00 a.m. till 2:00 a.m. Monday through Friday and about 10:00 to 6:00 on Saturdays and Sundays. You'd be amazed at how much use there is on

Saturdays and Sundays. We discovered that there is more use on Sunday than Saturday.

The data bank -- and we refer to the data bank as made up of libraries, aggregate today approximately one billion words of text, legal text. Just to update the material we have today requires an addition of a million and a half words a week. Our libraries fall in two areas, federal and state. On the federal side we have a general federal library containing the U. S. Code in toto, the decisions handed down by the Supreme Court, the Courts of Appeals, and the Courts of First Instance, the District Courts.

Then we have a number of specialized federal libraries and federal tax, federal securities, and federal trade regulations. In those particular libraries, in addition to the statutes and regulations and applicable case law, we include the administrative rulings and materials. For example, in a securities library we would include such things as no-action letters prepared and issued by the Securities and Exchange Commission, revenue rulings issued by the Internal Revenue Service are included in the federal tax library.

On the state side, under the sponsorship of a number of state bar associations or their affiliates we provide state law. Again, cases and statutes. Today we include the states of New York and Ohio, Illinois, Missouri, Kansas, Texas, and we plan in the near future to add the law of the

states of California and Massachusetts and Pennsylvania and probably to add some additional specialized federal libraries.

In addition to these general libraries, these libraries available to the public in general, we have a private library service whereby a subscribing firm may build its own file of internal work product. Perhaps the most interesting of the private libraries today is the litigation support service involving complex and massive litigation involving literally tens of thousands of trial depositions and trial transcripts, et cetera.

Today we have in excess of a 150 subscriber terminals installed throughout the United States. In law firms, accounting firms, state and local agencies and courts, local prosecutors offices for example, and in federal courts and agencies. In the private sector our subscribers range from sole practitioner to law firms with in excess of 200 lawyers. We have trained to date approximately 10,000 users in the -- to use Lexis. The overwhelming majority of those are lawyers, there are a smattering of accountants, revenue agents for example, the Internal Revenue Service who are neither, in many instances, lawyers or accountants, but predominantly lawyers.

I think that gives you enough of an idea of the status, where we are today. Let me talk a few moments about the views I mentioned earlier.

There isn't any one computer assisted research, legal research system, that will satisfy all the needs of -- all the legal research needs that exist in the world. In developing a computer assisted research system it must, however, be custom-tailored to the particular problems, language, attitudes, and work habits of the lawyers who use it. And this has been the basic philosophy of the Mead Corporation, that a legal research system should be designed by lawyers with the assistance of linguists and computer data processing people for lawyers, but it should be designed by lawyers for lawyers. And that is what we have attempted to do from the beginning.

We have tailored every aspect of the service to the practicing profession to make it as congenial as possible to the working habits of the lawyers who will use it. But whatever the specialized functional features, whatever the data bank design, we are firm believers that an enduring system of widespread use must be one, full-text and two, interactive.

There are still those who debate the merits of full text. You still continue to run across in the literature comments to the effect that full text only works with statutes, that you must have thesauri and other such aids. We believe that most of these comments derive from experience with systems that operate in the batch mode. In switching to an interactive system the underlying problems diminish substantially.

Of the total use of our system probably less than ten percent is directed against statutory material or administrative material. The overwhelming bulk of the use is directed at case law, with some pretty spectacular results.

Finally, we believe that the most fundamental factor in developing a system is to know where to draw the line between what the machine does and what the human being does. Let the machine do what it does best, the brute force search of massive amounts of legal material. Let the human being do what he or she does best in the intellectual functions relating to determining what the problem is, what the proper vocabulary and syntax should be, and whether the retrieved documents are relevant to the problem presented.

In developing the Lexis system we have interposed no automated ranking systems, either in the search phase or in the retrieval phase. The only ranking upon retrieval and display is the highest court first, the most recent decision, and that doesn't mean that the first case will necessarily be the most relevant. Of twenty documents retrieved and viewed, maybe the 19th will be the most relevant, but with functional features available to look at full text, for example, key word in context, to be able to go into the text of a full opinion and see your search words with the syntax you've required, to see windows of text surrounding them, the search expressions, one can very quickly determine whether the case

is of further interest, or is obviously not relevant to the issue presented.

And on that note I think I will close by simply saying that if you have not seen it, as Mr. Skelley indicated, it is here in Exhibit Area Two. Go down and try your hand at it. There's nothing canned about it. If you have some research you'd like to try, be our guest, please.

Thank you.

(Applause.)

MR. : Thank you very much indeed, Bob, and I really would add my own emphasis to that. Please go down and try these systems. They're both there, and you really can only appreciate them by trying them. You can listen to lectures, you can see slides, you can do all these things, but the real effect is to go down and type in your question and see what comes back.

Our next speaker is Lieutenant Colonel Rose L. Valino. I probably should say Lieutenant Colonel. She is chief of FLITE, and FLITE is you might say a flightier version of LITE. LITE used to be Legal Information Through Electronics. The F was added what, about six months or so ago, and I must admit FLITE has a better sound when you think it's related to the Air Force, and so on. So it's now the Federal Legal Information Through Electronics.

She's on the direct staff of the judge advocate, and

no, right, Judge Advocate General of the U. S. Air Force. She's a member of the bars of New York and Massachusetts, and has been an Air Force judge and advocate over twenty years in various assignments.

She is certified as a military judge, and is an honest graduate of the Air War College. She's past president of the Colorado Chapter of the Federal Bar Association, and is currently a member of the FBA National Council, second vice-president of the Tenth Circuit of the FBA, and a member of the ABA section on science and technology. I'd like to present to you Lieutenant Colonel Valino.

LIEUTENANT COLONEL VALINO: Thank you very much. How much time do I have? May I borrow your watch?

MR. : Fifteen minutes.

LIEUTENANT COLONEL VALINO: Fifteen? Okay, I'll try. I have the advantage, really, in this respect of being the last speaker, so I can -- rather than repeating all that would pertain to FLITE sort of dovetail my own input into it. Someone who saw me around said Oh, are you going -- not- ing that I was a female -- said are you going to speak on women's lib? And I said well, you're fifty percent correct. I'm going to speak on lawyer's lib. And I think that we've all been examining this technology long enough to realize that the technology is needed a great deal, and it's here, and what shall we do about it? Really, it's a matter of applying it

and using it.

I'd like to thank all of my hosts for asking me to participate in this august conference, thus enabling me to tell the world, through the leaders of the legal profession, what the United States government has done to promote the development and application of the technology in doing legal research work by computers. It -- considering the mission of the World Peace Through Law Center, which is, I understand briefly, to settle differences peacefully by the application of law rather than force, my presence here as a member of the military may seem incongruous.

To the contrary. I hope that my presence here, and the matters that I am about to tell you, will attest to the value of the military to engage in peaceful pursuits, and more specifically, the contribution by the United States Air Force to the civilian sector of the government across the board, and more generally, to society as a whole.

The -- you may wonder, how does the Air Force get in the act on such a broad mission? The technology was first applied, the effort made, over fifteen years ago. So you see, that shows you where the United States Air Force is placed in relation to the development and application of the technology by my other two illustrious colleagues here with me today.

The Air Force got into it because someone at the Air Force Accounting and Finance Center, some finance officers,

said this technology is available. How about putting in the finance manuals in our computer -- because the Air Force accounting and Finance Center is the paying agency for the entire United States Air Force, and they have today what amounts of a \$15 million complex. Right now they have an IBM 360/65. They've gone into high density storage, and when we all move to that fancy \$20 million complex at Lowry Air Force Base we're developing two computers one of which will be in the IBM 370 series.

So the Corporation Counsel there, which happens to be an Air Force _____ office, had a few far-thinking attorneys -- and of course with the assistance of people in the Judge Advocate General's office and other high leaders in the Air Force, and Department of Defense structure -- they, with the assistance of non-lawyer EDP types stored a lot of this data, and wrote programs for its retrieval. Then the next step was the Air Force became fully operational, has been fully operational for a good ten years, so we are no longer a project, as such. We are a fully operational system.

And we became designated the Executive Agent for the Department of Defense to perform search service, not only to the military components of the Department of Defense, not only to all civilian components, whether they be attorneys, non-attorneys, but also to non-Department of Defense federal agencies on a fee reimbursible basis, \$50.00 for an entire text

file, regardless of how many segments.

And by virtue of the inter-government cooperation Act we are authorized to perform search service and create our special products for state and local agencies and officials in their official capacity. We have had very little business from state and locals. We're not going out of our way to encourage the business. I should add that by policy the Air Force does not provide service to civilians in their individual or private capacity, the policy being that the government does not want to unfairly compete with the private -- with the commercial sector.

Some people bring up the argument well, this system is a government system that's being developed. By our -- with our tax money, we should be able to use it. Well, it's a dilemma, as you can see, so right now the -- I do not anticipate that we'll ever compete with the private sector in developing and applying and selling its system on a commercial basis to individuals. There is an overlap where the service involves a -- government personnel.

FLITE has -- incidentally, our system can be no better and no more valuable than its data bank. Now I did pass out some pamphlets. There is an outline of my presentation, and attached to it a listing of our data bank. That data bank, of course, is very, very dynamic right now. We're updating it. We're increasing the text files. So please do

not look at it and gasp and say My goodness, they're so far behind. We've got the Armed Services procurement regs of 1969. We're in the process of putting in the 1974 version. We hopefully, on capturing data for the future -- see, there's always a backlog. Whenever you get a new text file there's always a lot of stuff that has already -- that's already out in print, and that's one problem.

But in our update we hope to go into source data automation so as to close the gap between what is printed and what is just coming out of the judge's mouth, as much as possible, a very optimistically, maybe three weeks, and I don't think that's very much to ask. Well, in some cases three weeks. I think the use may not mind.

In addition to search service, where we would provide citations of cases and excerpts from the law, either a quick excerpt pick, a key word context -- KWIC -- or a full printout, we also, as you heard me say before, create special products. For one thing, as a tool for the attorney adviser to use, we have word frequency lists where we can tell you the incidence of occurrence of every word in the entire text file and in each case and in how many cases.

But we also have what is known as a quick index in which every word of a text, except for very common words, much less than a hundred, like are, the, words that have a very high frequency and have no really meaning in themselves, every

word becomes an indexed word, and preceding it and succeeding it is a portion of the text as it actually appears in the text file, and that word -- well, this quick index is arranged alphabetically in vertical progression, so you see that unlike the conventional text it's apt to be at least twenty times bigger than the actual text, rather than your subject hierarchical type index in the back of a book which is so convenient to thumb through, but which very frequently is not at all helpful, because it doesn't contain words that may lead you to a particular citation that you need.

Because -- beyond telling you this -- as I said before, since I'm the last speaker on the program, I think it best to describe the FLITE system in terms of the major differences and similarities of the systems you have already heard about. Like Juris and Lexis we are a full-text storage and retrieval system with all of the advantages, challenges, and shortcomings of the full-text system retrieval. But I'm -- when I say shortcomings I'm being extremely modest, because it is a very superb system.

Now also, like Juris and like Lexis, we use terminals. However, we do not function on the basis of a terminal in every lawyer's office and the user's office, like a chicken in every pocket, chicken in every pot -- excuse me. We have right now three terminals for the use of the flight attorney adviser, and this attorney adviser is what also distinguishes us --

FLITE -- from the other two systems. It renders us a service center, which means that we are as far away from you as your telephone. If you have a problem, instead of working out your own terminal, and using it, you telephone us, and our attorney adviser will determine whether to use the terminal, see, whether to access our data, which is on-line, incidentally, in the Department of Justice. It's attached to the Juris system. Or whether to use the batch processing procedures.

We have the two systems working side by side. When I said that our system has been fully operational for over ten years I had in mind the batch processing environment. Recently, within the last year, we have effected a courtship with the Department of Justice, and I might say now that's quite an expensive dowry that they asked for, something like a copy of -- a complete copy of all of our data bases, barring none, that they would use in exchange for our merely being able to hook up some terminals.

And I'd like to take advantage of this particular place in my presentation to tell you that of course we -- there was reference to custom-tailoring a system to the user's needs, and we grew up sort of trying to tailor ourselves, see, to the needs of the government, and we have found that the batch processing system has superiorities over the terminals, which -- and -- which therefore have made us determined that we will never abandon the batch processing system.

Now this does not mean to say that we will not continue with the terminal system. We will, but as an adjunct. What are these advantages? Superiorities? Well, first of all, economy. In batch processing, as you know, the data is not stored on line for extended periods. Our magnetic tapes, the data on that are put on discs and disc packs which are located physically away from the computers, without an umbilical cord tied to it. It's just away. And these spindles -- these disc packs are loaded onto the spindles in the computer only for that limited time that our searches are run through them.

So therefore, you can see that while our disc packs are not occupying space in the computer other utilization can be made of those computers, in that space. So it suits us best in serving a large, scattered user population.

Now, this gives us 24-hour turnaround time, which is helpful most of the time, but sometimes not, because some people may need their information much more quickly. By special arrangement with the Air Force Accounting and Finance Center about ten percent of our trade can be processed immediately. We can go to them and say gee, we've got something hot. It's real important, and they'll drop what they can do and load our spindle -- load our disc packs on and run our searches.

Now of course with the development of the terminal system, where direct access will be efficient to -- for this

particular search processing, then we have the terminals. WE can look to the terminals that are already hooked up to the Department of Justice in Washington. See, we've got two computers, and hopefully we're getting the best of the two systems and curing the disadvantages and ills of each.

The other thing that experience has shown us so far is that the batch processing has been superior in processing very highly complex searches where you have a lot of contingencies and a lot of groups and a lot of words in relation to each other which have to be processed. For the -- the advantages there are for two things, that the human mind, first of all, has to retain, or this tremendous complexity of relationships of words and phrases, but the other thing also, we have found, is that the lawyer does not like to sit down at this machine, see, because in terminals -- and I don't care what kind of terminals they are, that's an individual, the lawyer, hopefully not his secretary or a paralegal -- that's another subject. I won't go into that. But it's a lawyer, and he knows, he's looking at that CRT and he's the one that should sit there and make a judgment as to whether it's relevant and so on.

But that lawyer has to stay with that machine through the entire processing. Whereas in the batch processing the lawyer takes the case. He writes down a few words in plain English in his scratchy legal handwriting. That's taken to

our keypunch operators who translate it into machine-readable form, and then -- he never sees it again after he gives it to the keypunch operators. The keypunch operators do the whole thing. They run with the ball, take all these cards across the way to be processed by the machine, and then the machine -- and then the output is provided, and our output is -- you can get a citation of a case, headnotes fully -- full text, and -- or excerpts therefrom.

Whereas in the machine he's got to sit down and all that time is being spent. So we love them both, and each has something that's good to give that the other hasn't got, but the -- each has something that is a failing, so no, it's a double-edged sword, and we hope that we're combining the best of the two systems.

The other characteristic of our system is that we are a service center, as I said before, but we have to -- and we -- their -- our attorney adviser is -- acts as a liaison between the actual user, you know, the ultimate user and the machine. This has -- is viewed by most of our people as a great service, a true -- we recognize the fact that some people like to sit down, and I don't mean to render it as a toy. I mean it's not a toy. It's a wonderful machine, but they kind of like to do their own fiddling, at least for a while.

But it's -- it has turned out to be a wonderful

service to the user to be able to call up, get a number, hear a voice say I would like a search, talk to a fellow-attorney, a sister-attorney -- I can't forget this is Women's International Year -- sister-attorney, and say this is my problem, and the attorney adviser not only is very experienced in the substantive aspect of the data bank, but also in its format, and he has certain tools to work with. As I said, the word frequency list, his own experience, quick indexes which are all on microfiche, and --

Well, if I have one more moment --

MR. : One moment.

LIEUTENANT COLONEL VALINO: One moment, all right, I'd like to tell you something about an important trend which I foresee will probably at least be experimented with, and that is the trend toward the conceptual. As you know, searching on full text is a search on words, and words can lead you astray. No problem when you search them one word. As a matter of fact, if you can lump your whole problem into one key word you've got it made, because even if you don't pull out anything that is material, at least you have affirmatively established the negative, which you can't always do.

And I -- if you're like I am, you sometimes go nuts wondering whether you couldn't find it because it didn't exist, or because of your own inadequacy at searching. So we have, as you noticed in your data bank, we're capturing all

of West Publishing Company's materials. That is the Reporter series, and we're using their key numbers. So that gave me the idea -- of course then we can search on the key numbers, see, which is conceptual, and we can retrieve by merely requesting the head notes and the heck with everything else, that is except for the title of a case.

So I'm wondering, and I'm toying with the idea of doing the same thing with our other text files which lend themselves to a numbering system, and assigning numbers to various subject matter so that you just get headnotes. We used to pooh-pooh headnotes because they represented the intervention of a third person, you see, it wasn't pure. But when you use those headnotes in conjunction with the full text, which will always be made available, even though we -- this is another option we will give the user, then the dangers of someone else's thinking and the dangers of not understanding it fully will be obviated, hopefully.

Well, all I can say is we're as far away as our telephone. Give us a call. We'll be glad to talk to you further, and thank you so much for listening.

(Applause.)

MR. : Thank you very much, Rose. I must remember that trick. It's a great idea. You get up to the podium and you say to the chairman, "Can I borrow your watch?" And then I haven't a clue what the time is.

(Laughter.)

MR. : YOU also, you put it on the desk upside down, as well. That's the other trick. And then the chairman has no idea of whether you're sticking to the time or what's happening.

Well, I think saw an interesting selection of views there, ranging from headnotes to full text and so on and so forth, so I think you may deduce from the comments we've had that all is not finally decided yet. We don't exactly have the perfect system for information retrieval, but we're getting there slowly.

Rose was right in that she is the last person on the program. However, there is one person who isn't on the program who by some fate of chance -- I assume something to do with the computer -- his paper was put into the wrong working group. I think maybe an information retrieval system was used and words were thrown in and one of the groups was just dealing with treaties, got the paper. In fact, the data base involved in a treaty data base, but it's a paper dealing with information retrieval and not with creating treaties in the sense of the original legal documents.

So I've agreed to give Mr. Ramon Deranova an opportunity to talk to us for approximately ten minutes or so about his paper. I believe copies are available down in the demonstration area, and we may have a few extra here. I notice

someone has taken mine, but -- so I can't actually give you the name of the paper, because it's disappeared.

But let me introduce -- no, that was the (inaudible comment). Let me introduce Mr. Vanon-- I'm having difficulty in pronouncing your name. Veranova. Is that close?

MR. : (Inaudible.)

MR. : Yes. He is with the Spanish Foreign Ministry, and head of the service of Informatics. He's developing a data bank of treaties which have been signed by Spain, and the project is called IBERTRAT, I-B-E-R-T-R-A-T. He's participated in many international meetings, European Committee of Informatics of the Council of Europe, the OECD. He's been the chairman of the 7th Assembly of the IBI.

His -- he has presented a paper to this conference on the IBERTRAT project, and he will not say a few words to us. I believe Spanish translation is available, if you will prefer to speak in Spanish.

MR. VERANOVA: Thank you very much.

MR. : I say that looking around for somebody waving frantically to me. No, it's all right.

(Inaudible conversation.)

MR. VERANOVA: (By interpreter.) I think that there is going to be interpretation. There is. Since that is the case I will speak Spanish. I'd like to thank you for this opportunity, after the slight confusion of the program, this

opportunity to present very rapidly the -- an account of the IBERTRAT project in Europe. This project is known in certain informational and legal circles, but in the United States I think that this is the first time this project has ever been mentioned.

In the working document which I presented, which is called IBERTRAT, there is a description of the system. That is why I don't have to repeat or summarize this communication, because I consider that you will perhaps read it yourselves, and instead I will tell you about some of the things which do not appear in the document. That is to say certain details of complimentary nature.

This IBERTRAT project is a data bank of treaties to which Spain has subscribed since the 1100, year 1125. That is to say it includes 850 years of international treaties. We call this data bank because it contains information on treaties, and information is structured in such a way as to be able to be retrieved for various applications. That is to say the Ministry of Foreign affairs can use it. That is the main user, and uses it for -- to retrieve necessary information, but at the same time -- and this is the reason why in this bank we have maintained all the treaties, even the ones which are no longer in force or in effect and which are simply examples of legal or diplomatic practice, so that they should be able to be available to university historians who'd like

to use them for historical purposes.

This IBERTRAT project follows the tendency of others which in the United States, such as the Bixson project for statistical information. The collection of United Nations and League of Nations treaties. Peter Roan stayed with us for three months in Spain and inspired us and he has been in contact with the Sorbonne project of Professor Pinto.

We also drew inspiration from the work done by the Council of Europe. The -- that is to say the analytical abstract which accompanies every text of a treaty. As I said to you, we are using this to obtain information, to retrieve information. At the same time we are conducting statistical studies to study or to know quantitatively certain sociological data which can be obtained from international treaties. Thus IBERTRAT has a practical purpose. It was generated by the necessity of having documentation on Spain's treaties, as is true for other countries.

Our last official collection, which ends in 1910, and we had another collection which ended in 1936, at that moment all of the documents which we had on treaties represented about 2,000, and the gap between 1936 and 1974 represented another 3,000 treaties. That gives us about 5,000 treaties in all.

Consequently, there was a practical necessity involved, and in each phase we have tried to develop a useful

product in this first phase. We made an inventory. We drew up a census of all of our treaties. This was -- and next we called it a census in Spain of all existing treaties, and we made an analysis of this group.

This is a document retrieval phase. Putting this on microfilm, and this gave us a complete product which is a general index of all of our treaties, about 800 years of treaty activity in Spain. We published this, but we also have it on magnetic tape which makes it possible to use it for mechanical retrieval, in this second phase.

The second phase is one which puts all of the text of treaties on computer tape, and this list of treaties we have enables us to -- leaving aside the intrinsic value of the treaties, it enables us to get access to them for other purposes. We have terminological studies and we're doing statistical studies which sometimes look like games when you don't understand the true scope.

We are spending a good deal of time in trying to give proper interpretation of these statistical studies. We have set up these studies which bear, for instance, on the months of the year when the most treaties are signed. You get rather curious treaties when you play games like this. It seems that June and July are the favorite months for signing treaties. This coincides with the school year, it seems, and it seems that there's this manner of diplomatic -- diplomats

still follow the schedule of their university careers, which is one possible interpretation.

Another interpretation might be that -- and this should be confirmed perhaps -- which is that at certain times of the year the climate is more difficult, and then when you have the thaw of the -- after winter and spring negotiators get together and documents are signed. That's a possible interpretation too.

Another statistic which initially didn't seem to be very important, was the statistics on the day of the week when treaties are signed. At certain periods of history it seems that no treaties were signed on Monday, and we saw here some religious influence of the time when treaty negotiation had to respect Sunday rest.

They found that in the 19th century in periods of civil war, and we found that in these periods the frequency of treaty signing was reduced almost to zero, these are just various ideas that I'm throwing out on these statistics. You can see that they're rather subtle sometimes. You will see that we might in this way work out certain principles which would be useful for carrying on sociological and other studies of the treaty-making process.

Finally, and this corresponds to the suggestion made by Professor Orel David considering that this is the first time that we have had here an opportunity to discuss this in

the United States, and considering that I haven't had any contact with legal scholars who know information theory, I would like to mention what groups are working on this subject in Spain.

One of the main ones is the Public Administration School, which has two information theory groups which are already discussing questions of legal documentation, sources of law. We have another group relating to legal problems involved in use of information in this way. We have reached certain conclusions to the effect that the state should finance certain projects which are being carried out. The IBERTRAT is one which has received the greatest attention.

At the present time we are studying certain political problems involved in information analysis, and we are working out a preliminary project for banks, but the guidelines of this law which is one meeting the preoccupations of persons in private life is to develop a -- the bank -- information bank and documentation. Some questions of limiting authorization to -- for access to the data in this bank, and determining who should use it.

We have introduced also certain principles relating to movement across international boundaries from conformity with our tradition, the application of this law will be left up to the traditional authorities, such as designating an ombudsman. The economic and social plan for development, the

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fourth plan which is in effect now, aims to promote further information on computers and on the use of information analysis.

We are also working out laws to protect author's rights in the future. It has been thought that perhaps an author will put a copy of his book in the computer, and then it would be distributed in this way throughout the world, and that his author's rights would be violated thereby. We have tried to figure out a way to protect authors' rights as regards the theatrical presentation of his -- based on his book, or something like that.

Finally, we have another group which promoted by the foundation for the Development of Communication and its social aspects, this is a -- with participation of the national telephone company, which has launched a program with lawyers and experts in information theory to explore the jurisprudential aspects of this problem, et cetera, et cetera.

Thank you.

(Applause.)

MR. : Thank you very much indeed. We have time for a few questions, if you have any, and I suggest you direct them at any members of the panel. George.

MR. : I'd like to direct a question to Dr. David. It appears that our careers are somewhat reversed. Dr. David started out in the law and now he's moving into mathematics. I started out in mathematics and ended up in

the law, and I'd like to save Dr. David a lot of time and effort in your pursuit, in this respect.

When I -- after I completed my formal training in mathematics, and found myself in the aerospace industry applying what I had learned, I found that the axioms and theorems that were so handy to solve the problems in the academic world had to go out the window, and we had to turn to approximations. We had to turn to numerical analysis techniques almost exclusively.

And the point is, at that time mathematicians -- mathematical purists looked down on numerical approaches to solving differential equations, for example, and -- but there were those that knew what the real world required, and moved forward and developed approaches for solutions in the real world.

Now, I just want to caution you that the same -- there is an analogy in the legal profession that there are legal purists that will tell you that these approaches to searching the law are just not -- there just has to be a better way, but my experience in the mathematical world is valid -- can validly be applied to the legal world. I think you'll find that you'll have to come right back around to the fact that the real world of the law is no different than the real world of mathematics, that you have to deal with approximations.

And I guess this goes all the way back to perhaps an axiom that nothing stands still in mathe -- in the physical world, nothing stands still. That's why we had to resort to numerical approximations. Nothing stands still in the law for very long, and you have to deal with approximations or changes in direction continually.

Thank you.

MR. : That was a question, George. I think the answer is probably you're right.

(Laughter.)

MR. : Do we have any other questions?

MS. : (Inaudible.)

LIEUTENANT COLONEL VALINO: I'm real happy that you asked that, because it gives me an opportunity to emphasize something. The reason why FLITE does not have an exhibit downstairs is because we use the terminal of the Juris system. We have just precisely those terminals in our office for the FLITE attorney adviser to use in interacting for you as the user with the machine. With batch processing the only way I could illustrate our system is to say to you telephone that number that I gave in your brochure and say, "I'd like a search," and then you hear the attorney adviser on the other end and he'll ask you for an official address, and if your address is of an agency, government, state, local, or otherwise, then you get your search, and your output, and I can

give you a copy of the output, but I couldn't move the \$15 million computer complex from -- and I'm not really being -- I'm being a little facetious, but I'm enjoying answering your question.

(Laughter.)

LIEUTENANT COLONEL VALINO: Have I confused you properly?

MS.: (Inaudible.)

LIEUTENANT COLONEL VALINO: Okay, yes, yes. I have a copy of a real search here with me if you want the output, if you want to see it.

MR.: Yes.

MR. LONGBEAU: My name is Longbeau. I'm judge in the Supreme Court of Italy. It is not then a long speech, it is only to inform the audience that I presented indeed a paper containing some details on the recent achievements of the Supreme Court as far as the computer assisted retrieval projects are concerned, and that these copies will be available tomorrow morning. That's all. Thank you very much.

MR.: There are a few copies at the front here. I didn't mention earlier, but tomorrow they will be available in quantity. We have a few additional copies of the paper on treaties. Any other questions? Yes.

MR.: Two questions. (Inaudible.)

MR.: Could you -- perhaps if you could

just say who you are.

MR. HYER: Robin Hyer, United States. Two brief questions. One, I hear a great deal of discussion about information retrieval based on a search for words, some discussion about an attempt to search for concepts. In the word search systems that are now in use is there a separate procedure for phrases, idiomatic phrases?

And secondly, can any of you who are working with a going computer system give any comment with respect to the amount of time saved versus the cost factor? How big an operation does one need to justify the expense of a terminal?

MR. : Can we get this mike working over here? Yeah, fine. Automation. Yes. Would you like to lead off on it?

MR. BENNETT : Okay. Well one of the advantages of full text search is that you can frame a search that will not only allow you to search on concepts but fact patterns. Of course with the traditional hierarchical indices you know if everything is arranged on the basis of concepts well-known in the law, and most users initially try to frame all requests, because that's the way they've learned from day 1 in law school, but they soon discover that because you have the full text in computer memory you're not limited to particular phrases and words, and so forth, and there is a laudat. The research in Lexis, for example, that is conceptual.

The average research session runs about twenty minutes. Now that isn't simply a question of dialing in, searching against a particular library or file, and then leaving. It's an iterative process. You -- with an interactive system you submit the first level of your search request and you see what the volume retrieval is, and based on that you make a determination to modify, to expand or reduce the volume.

You may look and display some -- look at some of the cases, the retrieved cases. Very often you will find in reading cases other language, synonymy, antonyms, related expressions that you hadn't thought of, and you go back to the search phase, modify your search request to take that into consideration, and proceed this way. You may go back and forth between the browse and the search four or five times before you're finished, but again, the average session runs about twenty minutes.

Now what was the second part here? The cost?

MR. EYER: The cost.

MR. BENNETT: The cost. We have a number of options. Of course we're the only commercial entity represented here. There is a minimum use commitment. You pay a certain fee for the terminal, and all communication charges to the computer, whatever they are. That runs \$500.00 a month for the first terminal. If you take second and subsequent terminals there's a reduced charge for the terminal, and communications, of

course.

In addition to that there is a use charge. In one package there is a commitment of \$2500.00 a month will give the subscribing firm approximately thirty hours of hookup time, and they pay at a rate of approximately \$90.00 an hour over that minimum use. There is another minimum use commitment of a thousand dollars a month, and we are introducing a new price package effective January 1, '76 where there will be no commitment at all. Pay the \$500.00 a month for the terminal and all communications and pay for whatever you use.

The higher the commitment the lower the hourly charge.

MR. : Paige, do you have any comments?

No comments? Rose?

LIEUTENANT COLONEL VALINO: I was just going to say that I don't know whether I made it clear in the charge the government has in data banks, that we happen to have. There is no commitment, only that to pay for your search as you go along, and there's no obligation to have a group of searches, or come back to us. I just wanted to make that clear. That's how we've been functioning.

Some people, for the sake of cutting down on the administrative expenses affecting reimbursement give us a lump sum, and then as they use it we charge against this lump sum, and when at the end of the year we give back what's left

or we ask for more, if it's not enough.

MR. : Professor David? Would you like to -- can we put this -- we've got another. We still haven't finished it yet. (Unintelligible.) I'm sorry. We had another answer to that earlier.

Can you put this mike on? Automation.

MR. : Automation.

PROFESSOR DAVID: (By Interpreter.) I would like to make two comments of a preliminary nature. Everything which has been done, and which has been successful in the work in phase one, which is the least theoretical and the only luck we have had is already operational. All the rest is scientific studies.

This is hypotheses, with verification of hypotheses, which is necessary, but is not yet been verified. These are hypotheses which have not yet justified themselves. I was going to just ask you to send to our library in Paris, if you could, as I can't carry them with me on the airplane, but send them -- or to me, if you want.

We are following what has been done, and that is the only thing which is any good, which is being done for the time being. Now this doesn't mean that we shouldn't try and go further. I would tell you a short story about the last war.

Many of you are too young to have known the last

war, but I was a soldier in the war and then I was in occupied France. I said we are in a state of a -- fighting with tricks. The problem is too big for any single person. We couldn't fight with them, we were too small and too weak. The only thing we could do was little resistance actions going into the mountains and then attacking a small group, killing a few soldiers. That is what we are doing now.

It's like that. It isn't a real world. It's sort of a random actions, and it's the only thing that can be done, and -- but it's still good.

I said that I'm not a theoretician. I've lived forty years with civil war. I've known civil war very well. I am a professor of law, myself. But what I do as a theory I draw from what I learned in the -- in law and what I have learned from the full texts who know the law and the texts. You are paid and you do something. I'm being paid for doing nothing for the time being.

Yeah. It's true, like any researcher, but it's still very practical to have a good theory. The most practical thing is to try and have a good theory, then you can start again from the theory. You can't make a good radio set before studying the bases of electronics, but radio, just by messing around with a soldering iron you can't build a radio.

Or you might have luck, but tomorrow you have bad luck. The only mentality which is acceptable now is the

full text mentality. Everything which was said today about full texts was said in 1969 by a very good researcher who was working with the American Standards organization, and with _____ In Israel, Mr. Frankel who wrote a book on full texts, and this is the only possible way of approaching the problem.

For the time being we're dealing with sort of random attacks on the enemy, which is the only thing possible, because the enemy's too strong, too big, but you know what the Americans were doing here while we were suffering over there. The Americans built their factories, and with the factories they built their airplanes, their tanks, and they sent them over to the Germans and defeated them. Although that was necessary first.

So we had to do both. We had to carry on our little resistance actions, and at the same time it was necessary to prepare a major attack.

We've got us to find the bases of law and to come back with our bases of law and put everything into order. It's like a chemist who sniffs and sort of as though he were in a kitchen, rather than actually working scientifically. He studies with his nose and his tongue, but then at the second stage he makes the proper sort of analysis and then he knows exactly what he's dealing with. He says this is iron, this is nickel, this is something else.

But for the time being we are really in the sniffing and tasting stage. That is our situation as theoreticians vis-a-vis the practitioners. We're happy with what the practitioners are doing, and we live our own selves by studying what the practitioners are doing. What Colonel Kelly's doing is very well known over too. Colonel Kelly I don't think is in flight any longer, is he?

I used to know him very well.

And now its name is FLITE, but we know LITE and FLITE. We know them very well, and it's very -- it's apt, it's good. And it's the only thing that acts. Nothing other is good. Only LITE and Professor Halsey and so on. You have always the system _____. Yes, same system. We too, it's the same in France and the same in Italy, but you see the Professor of high court, Italian high court, well, he acts to -- researches to find three thousand words, good words, fundamental words, three thousand!

That's very nice. They are not the good one. The good one are probably three or four or six. You have to find them. It's so difficult to find them as it was difficult to find the electron and the atoms and so we don't know them.

Now that's not a good -- a way of thinking to say I know nothing. I have -- I must do nothing to know. You must. It's a slave mentality to -- not to react, not to fight with the difficulties. It's very, very difficult. Perhaps

it's too difficult for human beings.

Now we shall see. We shall try. Thank you.

MR. : Yes. I think we have -- very interestingly, the idea that the things that we're doing now are really vehicles to get us to some point in the future, and the key is to pick that point and to try and aim at it. I'll respond to you next, John. Actually Clark got as far as the mike last time, so in all fairness I should invite him to come back, but I yield to John. John, would you like to -- John Lyons?

MR. LYONS: Mine is directed to the Colonel. It's just a very practical question. She had raised the situation that you have received approval or is it governmentwide to use the West headnotes?

LIEUTENANT COLONEL VALINO: We have a special agreement with West Publishing Company giving us the license to use their headnotes, and to use, as a matter of fact, the full text of the federal supplement, federal reporter second series, and federal reporter, and we --

MR. LYONS: _____ government agencies _____?

LIEUTENANT COLONEL VALINO: Yes, the search is.

MR. LYONS: No, I'm talking about the ability to use them.

MR. : The data themselves.

LIEUTENANT COLONEL VALINO: You mean the data bank?

MR. LYONS: Obviously this is a very -- you know -- interesting legal question.

LIEUTENANT COLONEL VALINO: Well, let me put it this way. The Department of Justice has the same thing, but it's for the use -- it's limited to our use in providing service to all of the government agencies.

MR. LYONS: Colonel, the question I asked, would this be available to any government agency, the data bank, as defined --

LIEUTENANT COLONEL VALINO: They'd have to make their own deal with West Publishing Company. I thought I answered that when I said it was limited to search service by us, and providing our service to others. We're -- I'm not going to litigate the issue as to whether, if we wanted to break our arrangement with West Publishing Company, would be -- would we be held harmless. All I know is if we do violate the terms of our license West Publishing Company can just terminate the agreement, because it's -- the agreement is on those terms, that it's for our use, and if another government agency wants to capture that data and you know, create its own tape, they would have to make their own deal with West.

MR. LYONS: Okay, thank you.

LIEUTENANT COLONEL VALINO: You're welcome.

MR. : Is there any truth to the rumor, Colonel, that the deal is that you can --

(End of side one of tape four)

MR. : -- such. They made them and the system is fully operational. Yes, yes. And as a -- the second thing is that perhaps we do not need to reduce such words anymore, because perhaps the extreme reduction from 3,000 or 2,000 to 4 or 5 is not at all necessary, if we have a computer who learns them as workable instruments.

So another of the speakers said that in some of the queries here, in the states, to some -- in some systems, computerized system, has to repeat the same -- exactly the same words which are contained in the document. We do not need that. The system developed there in Rose works by concepts. That's to say if I express a concept by any word the computer, who has known, has learned the thesaurus, can translate them and understand them like a human being.

So by only having learned three thousand words. So if I say desist -- I beg your pardon.

MR. : A human being does not understand them, so (inaudible).

MR. : Oh yes, because they are --

MR. : -- understand them as well as a human being.

MR. : Oh, much better.

MR. : (Inaudible.)

MR. : (Laughs.) So if I say desist, the

computer understand any other equivalent expression.

MR. : Yes.

MR. : Any other equivalent expression.

MR. : (Inaudible.)

MR. : Yes. That's all. Thank you very much.

MR. : Thank you very much.

MR. : Pardon, Mr. Chairman. May I speak in Spanish, because this is better than my English.

MR. : Certainly.

MR. : I should be very brief. (Through translator.) I'll be very brief. I just wanted to ask a question, or two questions. In the first place, the legal process has two stages, one being the formulation of the law, and here I agree with Professor David, who says there is a general human law which comes from Greece and Rome.

This application of the law is something which -- as I said, have equity of conscience and justice which has to be applicable to all men, women, et cetera, at the same time, and not -- we should not have only the mask before the man which Professor David mentioned.

Now in a particular case I would like to ask the following question. Computers -- and here I'm very happy to hear that we have more and more information on the text of treaties -- but I think that computers will never have con-

science and will never be able to apply concepts of justice and equity, consequently. Lawyers are, as we all know, human beings who use texts and the law has to be judged by the following standard: If it's an unjust, it is not law. The august mask of law then becomes tyranny, and in this world, if we try to find peace using various types of civil, penal, and international law and other types of law which we know, what we need is a certain conscience.

But it's necessary to take into account still human dignity in the whole process.

MR. : Do we have any other questions?

Yes.

MR. : (Through translator.) I'd like to speak Spanish too, Mr. Chairman. Since I'm an administrator in the tribunal of -- administrative tribunal in Puerto Rico I'd like to have some information on the Lexis system. Is there a study which makes it possible to use this system in Puerto Rico? In Puerto Rico we find that jurisprudence and the law of certain other states are used in our system, and I'm wondering if the representatives would make it -- if we could use this Lexis system to improve our system, and if we could have some information on what might be applicable particularly to the case of Puerto Rico, either now or later.

MR. : Is it on?

MR. : Yes.

MR. BENNETT : I'd be glad to talk to you alone. We have -- there has been some correspondence between Mr. Rubin, president of this company, and another gentleman in Puerto Rico associated with the courts, and if I'm not mistaken the proposal was made. I just don't remember the terms and conditions and the details, but it's been sometime within the last year, and I'll pursue that for you if you'd like.

MR. : Do we have any other questions? I would therefore like to thank everyone who has participated on the panel. I'd like to thank the interpreters for their hard work, for our officials, our _____, our student help, our honorary chairman. And I'd like to thank you for coming along. So I would ask you to join with me in thanking all those people.

(Applause.)

(End of proceedings as recorded.)

END