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Forgotten Prisoners II

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Forgotten Prisoners II†

Introduction

The Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders convened in Geneva, Switzerland, September 1 through 12, 1975. It was on this occasion that a woman was acclaimed president of the Congress, notably Mrs. Inkeri Anttila, Minister of Justice, of Finland. Some 80 nations and 1,000 official delegates participated. Approximately 15 international organizations and about 30 individual participants from a number of nations also were present. The official United States Delegation, headed by the Honorable Harold R. Tyler, Jr., Deputy Attorney General of the United States Delegation, was comprised of 28 persons from diplomatic, legal, correctional, rehabilitation, social and economic disciplines. Among the observers was the Palestinian Liberation Organization.

In substance, the Agenda of the Fifth United Nations Congress contained five principal topics:

- I. Changes in forms and dimensions of criminality;
- II. Criminal legislation, judicial procedures, and other forms of social controls;
- III. Roles of police and other law enforcement agencies;
- IV. Standard Minimum Rules for the Treatment of Prisoners and Other Offenders;¹ and
- V. Economic and social consequences of crime.

One of the questions raised in the secretariat's working paper,² and frequent-

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†This article is presented by the author in his individual capacity, and not as representing the U.S. Government or any official organization. It is a report on the Fifth U.N. Congress For the Prevention of Crime and the Treatment of Offenders. The reader is invited to *Forgotten Prisoners I*, 5 INT'L. LAW. 1 (1971).

¹STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS AND RELATED RECOMMENDATIONS, U.N., DEPT. OF ECONOMIC & SOCIAL AFFAIRS, N.Y., 1958, Special reprint.

²Summary of Secretariat's Working Paper, A/Conf. 56/4. 5th U.N. Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, Switz., Sept. 1-12, 1975, Criminal Legislation, Judicial Procedures and Other Forms of Social Control in the Prevention of Crime, Agenda Item 6.

ly thereafter, was decriminalization and the definition of criminal conduct. Prostitution, alcoholism and gambling are usually referred to as "victimless crimes." The Soviet Delegation asserted these were not victimless, inasmuch as society, as a whole, became the victim. Many delegates felt "victimless crimes" should not be defined as criminal because responding to them distracts the energies of each nation's criminal justice system, and applies a cure ill-suited to the malady. Also, the involvement of the criminal justice system therein stigmatizes perpetrators of victimless crimes and reduces the respect of the public for the criminal justice system. Other regulatory systems can be devised which are far better suited to handle such victimless crimes. Since the principal emphasis of the criminal justice system has been upon those crimes which have victims and for which persons are apprehended, criminal conduct involving serious harm to persons or property must be controlled; and over the centuries patterns within the criminal justice system have evolved to respond to the serious offender who kills, maims, rapes or steals. There was wide agreement in the Fifth Congress on "decriminalizing" certain offenses, such as homosexuality, prostitution and the use of some "soft" drugs.

Many Delegates emphasized the importance of population concentration, unemployment, and other common factors which affect the rate of crime in their various countries. A number of Delegates also spoke on the question that large cities, or permitting the growth of large cities³ and concentrations of population, were also a contributing factor to the increase in world crime, and in their various countries. However, the common problems existing and the desire to improve upon the prevention of crime and the treatment of offenders on the part of all delegations, organizations and individual participants were very clearly evident throughout the Fifth United Nations Congress.

The present writer was honored to present on behalf of the United States a statement on white-collar crime, corruption, and organized crime, as follows:⁴

The U.S. Delegation notes growing organized crime as reported to the Fifth U.S. Congress, most recently noted as white-collar crime and corruption, by the distinguished Nigerian Delegate this morning, and by the last U.N. Consultant speaker. The U.S. Delegation suggests that the first step in minimizing and redistributing the cost of this type of crime is full, prompt and vigorous increased international cooperation and full *reporting* by police, investigative and legal authorities. Full and intensive

³See "Are Big Cities Really Necessary," *Chris. Sci. Mon.*, Sept. 22, 1975, at 8.

⁴Remarks by U.S. Delegate Edward R. Finch, on "Planning to Minimize and Redistribute Costs of Crime," 5th U.N. Congress, Sept. 8, 1975. See "*White Collar Crime and Self-Incrimination*," N.Y.L.J., Oct. 23, 1975; see also Brodsky, *Self Incrimination and Investigations of "White Collar" Fraud*, N.Y.L.J., Aug. 1 and 15, 1973. See also "Credit-Card Fraud Is Seen Increasing as Services Expand," *Wall St. Journal*, Oct. 14, 1975; "Pornographic Periodicals Tied to Organized Crime," *N.Y. Times*, Oct. 13, 1975, at 1, 43; and "Artful Dodger: Ex-Con Who Helped Recover Stolen Stocks Finds Leverage in CD," *Wall St. Journal*, Oct. 14, 1975, at 1, 24.

publicity and evaluations by each State of *all white-collar crime and corruption, as well as organized crime*, will mobilize world-public-opinion against organized crime and increase its control and suppression for the benefit of all peoples of the world. In making this intervention for full reporting of ecocrime, a new word introduced by the author, and corruption and organized crime, we do not minimize the difficulty of devising action research and new researches in this area. We only ask all nations to join us in intensified research, reporting and all media *publicity* with a view to minimizing the cost of this type of international crime.

The Soviet Delegation emphatically opposed any treaties for the international control of crime. International action, it said, would violate the principles of sovereignty. The U.S.S.R. was also against the project of a unified criminal code for Europe, but accepted the idea of bilateral treaties and the cooperation of two or more countries in dealing with organized crime and specific cases. Attacking the concept that rapid social change, such as industrialization or urbanization, necessarily caused crime, the U.S.S.R. maintained this was not so in socialist countries. The Indian Delegation stressed the difficulty in dealing with drugs and the role of white-collar crime in India. The Philippines Delegation condemned exploitation by syndicates and price fixing, proposing that international price fixing should be brought within the scope of the criminal justice system!

On the matter of trans-national and international criminality, there was discussion of the theft or destruction of cultural monuments and other offenses involving works of art for the control of which specific recommendations and papers were presented. Although much of this crime is international, no consensus was reached.

The Delegation from Colombia gave an extraordinarily frank account of drug trafficking and criminality associated therewith; and most other delegations maintained that their countries recognized their problems of alcohol and drug abuse and were taking effective action to counter them. That the U.S.S.R. has a serious alcoholism problem was confirmed by this writer previously in discussions with the Chief Justice of Leningrad in 1973. The United States freely acknowledged its international drug problems, against which real progress has been made by five years of executive and government action, including strong diplomatic efforts. The Delegation from Turkey responded vigorously to a Swedish reference to the resumption of opium growing in Turkey by stating that production of opium poppies was being carefully regulated in close cooperation with United Nations agencies.

Arab Delegates persuaded the Congress to drop political terrorism from a list of international terrorist activities requiring stricter control. The main types of terrorism now recognized by the Congress as requiring countermeasures are straightforward criminal acts "intended for personal gain" and those committed by deranged people. Terrorism involving innocent individual persons was not condoned for any purpose by most Delegations.

A Code of Police Ethics was presented which would specifically prohibit torture or any form of criminal, inhumane or degrading treatment of persons while in custody.⁵ It would be an important document paralleling the Standard Minimum Rules for the Treatment of Prisoners and Related Recommendations. But although efforts to adopt such an international code were unsuccessful, the groundwork has been laid, and it will receive attention again in the 1980 United Nations Congress. At the urging of Amnesty International, which seeks to help *political* prisoners throughout the world, the Netherlands Delegation sponsored a code that would have expressly called upon policemen not to employ torture and would have given police officers the right to disobey the orders of a superior where these would violate the "basic human rights" of an individual. However, a number of nations, including the United States and Britain, objected to the idea that policemen could refuse orders under some circumstances. There was also dissatisfaction with the suggestion that any policeman needed to be told not to torture a suspect.

Several Socialist delegations discussed the need for police in their respective countries to be more responsive to change and more socially adaptable, indicating that the focus must be on changing people rather than on changing laws and processes. Numerous delegations urged the need for greater cooperation between member States and exchange of ideas, in contrast to U.S.S.R. opposition to international control of crime. Draft principles of a code of police ethics were presented by the Netherlands, supported by Sweden. This Code, which invoked considerable discussion among many of the Delegations, was referred to the United Nations for further implementation. The Crime Prevention Committee of the United Nations, with the addition of Australia as a member, may well become the continuing source between meetings, which are held only every five years, of the United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The next meeting, the Sixth United Nations Congress, will take place in Australia in 1980.

The Cuban Delegation attacked the United States by referring indirectly to an enemy who was hounding them and preventing them from focusing on criminal justice reform. They referred to the necessity of eliminating the colonial imperial system of justice which they had abolished. The Cubans asserted that there is no drug traffic, white-collar crime or currency trafficking in Cuba due to the introduction of crime prevention concepts as distinguished from crime repression

⁵"UN Panel Hits Chile Torture," N.Y. Post, Oct. 15, 1975, at 28. "Torture in Chile is Charged by a U.N. Inquiry Team," N.Y. Times, Oct. 15, 1975. The five-member team was notified, six days prior to its scheduled arrival in Chile, that its visit had to be cancelled "until a more auspicious occasion." It had been investigating "the present situation of human rights in Chile," for seven months. See also "UN Report Charges Chile Runs 'Torture Centers'," Chris. Sci. Mon., Oct. 16, 1975, at 4.

because of the revolutionary police aided by increasing public conscience. Many nations manifested some amusement at these self-praising statements!⁶

Several Delegates noted a front page article in the *International Herald Tribune* with the caption "Black Markets Are Thriving in Eastern Europe Despite High Risks—Official Tolerance Contrasts Sharply With Communists Ideals," which read in part as follows:

Despite the theoretical risk of jail or execution for "economic crimes" in Communist countries, the black markets of Eastern Europe are thriving.

Tourists and other visitors from the West are often startled by the contrast between an official facade of strict Communist probity and the reality of grossly obtrusive corruption.

The publication of this article on the front page of the *International Herald Tribune*, during the Fifth United Nations Congress,⁷ did, indeed, contrast sharply with the stated socialist and communist puritanistic approach to crime control and alleged crime elimination propounded by the Soviet Union, Cuba, and Bulgaria in the discussions at the Congress just a few days previously.

At the Fourth United Nations Congress, in 1970, there was very little discussion of socialist criminal law, including codified political crime, as related to crime and the treatment of offenders. The contrast between the legal and criminological systems of the communist and socialist world and the free world became far more evident in the Fifth United Nations Congress (1975) than had appeared in the Fourth Congress (1970).

General observations on the possible effects of female professional participation in the criminal justice system were made on the reports by panelists from the United States, Bulgaria, Canada, Finland, Kenya, Sweden, and Zambia. All panelists agreed that women should participate equally with men in all aspects of the criminal justice system and tentatively concluded that such participation would have no general effect attributable to sex. The Delegates from Kenya and Sweden suggested that women would have a particularly beneficial effect on juvenile and domestic cases and that there might be a similarly good effect if women handled certain types of cases such as rape.

Evident again were the divisions between the socialist nations, the third world countries and the western bloc. The Bulgarian and Zambian panelists reported an unbelieved reduction of female criminality attributable to their social system and an absolute equality for women in the criminal justice systems. United States and Canada frankly reported increases in female criminality and limited

⁶"Portuguese Crime Has Risen Sharply Since Revolution," *N.Y. Times*, Oct. 26, 1975, Sec. 1, at 4. See also "New Alarm on Argentine Terrorism," *Chris. Sci. Mon.*, Oct. 7, 1975, at 30.

⁷"Black Markets Are Thriving in Eastern Europe Despite High Risks—Official Tolerance Contrasts Sharply with Communist Ideals," *International Herald Tribune*, Paris ed., Sept. 10, 1975, at 1.

participation by women in the criminal justice systems. A report drawn up for the Congress noted, "the increasing crime rate among women as a new and universal phenomenon," and that "lawlessness no longer could be regarded as a male preserve." The press widely described the astonishing increases of international and national female criminals.

On rehabilitation, many delegates took the position that the community is the proper place for rehabilitation, and that the police in the community must avoid becoming distant and isolated from the people. Some suggested that crime prevention panels, comprised of citizen and police officers could lead to national policies designed to prevent crime. The United States Delegate, Clarence M. Kelley, the Director of the Federal Bureau of Investigation, stated that by cultivating community trust and support, law enforcement officials could be better able to serve their citizen constituency through better performance and through reduction of crime.

The United States and other Non-Socialist Delegations noted a large increase in their respective countries, in private security organizations. Some emphasized the need to exercise control over private security organizations; and some suggested the need to legislate standards controlling them; while others stated that they could not only be an interference to the police, but produce serious political consequences, such as the loss of confidence in the police. The general consensus was that the rapid growth of private security organization, national and international, in recent years was most beneficial in the prevention and control of crime.

With the notable exception of a few communist countries, the delegations in general recognized that the prevention of crime and the treatment of offenders were a serious and increasing problem in their respective nations.⁶ Yet most of the people of the world, and certainly most of the civilian persons in jails and correctional institutions throughout the world do not realize that it is the United Nations, on an international basis, which is trying to make sure that there are no forgotten prisoners in the crowded jails.

The United Nations, by Resolution 415(V) in 1950, provided for a meeting every five years of the United Nations Congress on the Prevention of Crime and the Treatment of Offenders. On August 30, 1955, the First United Nations Congress adopted a resolution for all nations and for all civilian prisoners, on the "Standard Minimum Rules for the Treatment of Prisoners." What progress did the Fifth United Nations Congress in 1975, in Geneva, record with regard to this resolution? In anticipation of the Fifth United Nations Congress, the American Bar Association at its Montreal meeting in August 1975, had passed five major

⁶"Rise in Inmates Strains Jails in South; Florida Jams 10 Into 12-by-15 Foot Cells," N.Y. Times, at 1, 12.

resolutions for consideration by the Fifth United Nations Congress. These resolutions were not formally presented by the United States but were, in substance, thoroughly considered in the discussions in Section IV under the topic "Standard Minimum Rules for the Treatment of Prisoners." The principal American Bar Association resolution reads as follows:

RESOLVED, that the American Bar Association hereby endorses the proposal that the United Nations develop and promulgate standard minimum rules for the supervision of offenders in the community or in community residential care as a guide to all nations desirous of expanding and increasing their utilization of community corrections programs and services, and further

RESOLVED, that the President of the American Bar Association, or his designee, is hereby authorized to convey the Association's support of the foregoing proposal to the United States Government and appropriate officials of the United Nations and to urge the United States Delegation to the forthcoming Fifth United Nations Congress on the Prevention of Crime and Treatment of Offenders to affirmatively support and seek approval of said proposal by the member states represented at the Fifth Congress.

In 1974 the Secretary-General of the United Nations had requested that each country prepare a statement of the extent to which the Standard Minimum Rules had been implemented in its country. Six states in the United States have fully adopted the Standard Minimum Rules for the Treatment of Prisoners, and a number of other states and the Federal Government are in the process of adopting it here.⁹

The United States Delegate, Robert J. Kutak, under the sub-topic "The Standard Minimum Rules in the Climate of Change," made a statement on behalf of the United States Delegation which essentially implemented the above resolution of the American Bar Association (along with the four other ABA resolutions relating to juvenile prisoners, the mentally disabled, the improvement of condition of prisoners, the improvement of the condition and employment of minority groups, and the equal treatment of ex-offenders when released to the community), mainly by indicating that the United States had widely implemented the United Nations Standard Minimum Rules in the U.S.A.¹⁰

The United States survey of all states, the Commonwealth of Puerto Rico, the District of Columbia and the United States Bureau of Prisons, reveals that 78 percent of the Standard Minimum Rules have been fully implemented, 14 percent have been partially implemented, 4 percent have been recognized in

⁹Recommendations and Report of ABA Commission on Correctional Facilities and Services, by Chairman Robert B. McKay, and of the Section of International Law, by Chairman James T. Haight, August 1975. See ABA JOURNAL, Sept. 1975, at 1088, 1089. "The General Assembly of the U.N. has before it the recommendation to prepare a new set of Rules on the treatment and supervision of offenders in the community which would be responsive to the growing world trend in the direction of using non-custodial correctional measures where appropriate."

¹⁰Remarks by U.S. Rep., Robert J. Kutak, on "The Standard Minimum Rules in the Climate of Change," 5th U.N. Congress, Sept. 8, 1975.

principle; and 4 percent were regarded as not applicable. But the inquiry of the Secretary-General produced an unexpected side-effect in the United States: It appears to have caused a number of the American states to proceed to adopt and implement the Standard Minimum Rules as absolute minimums. Similar action is being urged upon all jurisdictions by the Association of State Correctional Administrators. Legislation is now pending in both Houses of the United States Congress to have the United States federal government also adopt them.

The United States Delegation took the position that the United Nations Standard Minimum Rules should continue to be given the widest possible dissemination. It is because of such vigorous legislative promotion since the Fourth United Nations Congress in Kyoto, Japan, in 1970, that a broad commitment was obtained in the U.S.A. to the United Nations Standard Minimum Rules for the Treatment of Prisoners and their underlying application in the United States.

Present United Nations Standard Minimum Rules are not readily applicable to, or suitable for, convicted offenders allowed to reside in the community under correctional supervision. This is, in large measure, also true of the Recommendation on Open Penal and Correctional Institutions. As many nations are increasingly involved with corrections in the non-institutional setting, it becomes increasingly apparent that there is a need for a new additional set of Rules, more explicit and detailed than the present United Nations Annex on Open Institutions.

However, the United States Delegation was not in favor of amending or modifying the present Standard Minimum Rules. It pointed out, at the Fifth United Nations Congress, that the development of a new set of companion Standard Minimum Rules for non-institutional corrections would not divert the effort to prepare appropriate commentary to the present Standard Minimum Rules to assure their continued implementation under changing conditions. The United States Delegation further emphasized that as the Fifth United Nations Congress considered alternatives to imprisonment and placed much emphasis, wherever and whenever possible, on community supervision, it necessarily followed that United States concern with the Standard Minimum Rules for the Treatment of Prisoners should keep pace accordingly by establishing a companion set of Rules needed for this express purpose.

It is interesting to note that the Association of the Bar of the City of New York by its Special Committee on Penology has recently recommended the following to the State of New York:

That the State of New York adopt the general rationale and policy embodied in the "Standard Minimum Rules for the Treatment of Prisoners and Related Recommendations" of the United Nations, in setting up minimum standards for correctional institutions, but without thereby reducing any particular standard that the State has already adopted, and with due recognition for higher standards that U.S. and N.Y. Constitutional requirements may mandate.

It is to be hoped that the State of New York will join the other states of the United States which are rapidly adopting the Standard Minimum Rules as minimums for the conduct of affairs in correctional institutions and the treatment of prisoners.

The Vice Chairman of the American Delegation, Norman A. Carlson, Director of the Bureau of Prisons of the Department of Justice, made a strong statement at the Fifth United Nations Congress on the rethinking currently taking place in the United States on correctional philosophy. That philosophy was summarized by him as follows:

1. The objective of corrections as well as the other components of the criminal justice system is to protect the citizens from crime and delinquency.
2. To achieve this end, a number of alternatives of penal sanctions must be available.
3. The least restrictive sanction necessary to accomplish the objective should be utilized—diversion, probation and other community-based correctional programs should be used to the maximum extent consistent with the public interest.
4. With regard to psychiatry and psychology and the other behavioral sciences, he recommended greater understanding of what to do with the violent and repeat offender. Correctional institutions or prison will clearly continue to be necessary.
5. Correctional institutions cannot coerce change in offenders. Offenders do change their behavior, but only when motivated themselves.

The conclusions reached in the United States paralleled those expressed by the Delegation of Denmark in the Fifth United Nations Congress.¹¹

Rehabilitation, which has increasingly been seen as the principal method to protect society from new offenses by released prisoners, has been particularly emphasized in the United States during the past 20 years, but corrections inadvertently misled the public into thinking that institutions and jails could produce change in individuals even involuntarily, where all previous community resources failed. Mr. Carlson emphasized that there should be a balanced correctional system reflecting deterrence and retribution, as well as rehabilitation. No responsible criminal justice administrator, he asserted, believes it is desirable to resurrect the barbarous prison conditions of the past. Incarceration and the resulting loss of liberty is a very considerable punishment—enough. People incarcerated should be treated within a humane environment which cannot be created in some of today's antiquated and overcrowded institutions. In addition, they must be provided with a wide variety of self-help programs so that those who sincerely want to help themselves may do so.

¹¹Statement by Norman A. Carlson, Vice Chairman of U.S. Delegation, 5th U.N. Congress, Sept. 1975.

The real problem is the chronic and violent offender. For that group, it is believed incarceration in a humane institution is necessary. The question, therefore, is not should we have prisons, but what kind of institutions will these prisons be?¹² These remarks were very well received and supported by many of the Delegates in the Fifth United Nations Congress.

After incorporating a number of amendments, consensus was reached on the following ten propositions, concerning the role of the police and other law enforcement agencies:

1. Fruitful cooperation was attainable between the world's police services, despite major differences in their structure.
2. Police should be answerable to the laws of their respective countries.
3. Integrity was the first quality required in a police officer and other law enforcement officials.
4. Police training should include the subjects of ethics, human rights and social science.
5. Police should be integrated with the community where support is indispensable to effective policing.
6. Women should be employed as police officers on equal terms, where appropriate.
7. Private security organizations should be subjected to some measure of public control.
8. Police should participate in the preparation of fundamental law and related processes.
9. International cooperation between police services should be strengthened and extended with special reference to the extensive Interpol organization.
10. An international Code of Police Ethics should be established, subject to reservations made by several delegations.

Probably the most important result of the two-week session, for many delegations, was the draft declaration banning torture, which was approved for submission to the United Nations General Assembly. Torture is defined in the declaration as

an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person, for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons.¹³

The United Nations Working Group on torture and related subjects had met early in the meetings for exchange of already fairly well-known views of interested countries and NGOs (Amnesty International, the International Commission of Jurists and others). The idea of an amendment to the United Nations Standard

¹²"Role of Prisons in Society Put Under Scrutiny," *Chris. Sci. Mon.*, Oct. 1, 1975, at 7.

¹³"U.N. Group Backs Ban on Torture," *N.Y. Times*, Sept. 14, 1975, at 4.

Minimum Rules to deal with the problem of torture was rejected, although the United States, Australia and some NGOs saw no problem in such action as a response to GA Resolution 3218 (XXIX).

Hijacking, terrorism and torture were major subjects of discussion at the Fifth United Nations Congress. Some Delegations argued that terrorism arising because of a struggle for independence of a particular national group *within* a country or a particular nation, should not be considered acts of criminal terrorism. In an excellent statement to the Fifth United Nations Congress,¹⁴ the United States delegate, Francis L. Dale, emphasized that the United States opposed all acts involving the taking of hostages, the destruction of community or public institutions or other acts of terrorism. A question was raised as to the role to be played by the international community in regard to these offenses, especially by a network of international treaties, and by an exchange of information on terrorism safety measures. In many contexts, including terrorism, it was clearly brought out that the existing treaties on extradition are in many cases antiquated and require updating.

With respect to terrorism, Mr. Dale made the following statement:

With respect to terrorism in general, we regret very much the efforts of some delegations in the Fifth U.N. Congress to politicize this issue in this forum. While political motivations such as the achieving of self-determination or independence are cited by some individuals or groups to justify terrorism, the U.S. rejects terrorism in any circumstance. Political objectives should be addressed in appropriate forums rather than resorting to violence against innocent bystanders. The U.S. Government seeks the reduction or elimination of the causes of terrorism at home and abroad, including legitimate grievances which might motivate potential terrorists, but until such time as the causes of terrorism are eliminated the U.S. Government adheres to the principle that terrorists should be prosecuted for criminally defined acts of terrorism within the country of commission or be extradited to a country having appropriate jurisdiction to try the offender. The holding of hostages for political purposes and the hijacking of planes for whatever purposes are acts which threaten the world community and the broadest multilateral cooperation is needed to eliminate them. Bilateral cooperation is also needed and the U.S. Government seeks to ensure that bilateral agreements such as the U.S.-Cuban accord of 1973 and international extradition treaties include legal deterrents to terrorism.

All the Delegations present were interested in the fact that community-based corrections do not represent a panacea, and that they are not intended to replace prisons and jails in the foreseeable future. Rather, they represent a new set of resources to be available to the sentencing judge and correctional officials in their attempts to deal more effectively with offenders.

Because traditional forms of correctional control, primarily institutional confinement, are becoming increasingly costly and less successful, many of the

¹⁴Statement by Amb. Francis L. Dale, "Violence of Trans-national and Comparative International Significance," 5th U.N. Congress, Sept. 3, 1975. See also Speech delivered by Secretary of State, Henry A. Kissinger, at ABA Annual Meeting, Montreal, Aug. 11, 1975.

delegations, not only in the developed but in the developing countries of the world. supported the United States view that community based programs be developed with emphasis on educational relief, counseling services and employment training.

The Japanese Delegation noted that within recent years international traffic of people has grown remarkably due to economic development and trade. A total of 2,330,000 (20 times the number traveling abroad 10 years ago) Japanese nationals went abroad and 724,000 (triple the number 10 years ago) foreigners visited Japan in the year 1974. These increases have given rise to Japanese domestic and trans-national crime problems. The number of Japanese nationals who were apprehended abroad and whose defenses were communicated through diplomatic channels or international courts or police organizations amounted to 198 in 1974. Some of these cases involved hijacking, terrorism, rape, homicide and robbery, and some caused serious international complications. The Japanese Delegation emphasized that a considerable number of radical extremists were going abroad illegally and perpetrating homicide, hijacking of aircraft, taking of hostages, in some cases in collaboration with fellow extremists from other countries. In one recent case, the Government of Japan showed utmost priority to the safety of more than 50 hostages, because among the hostages were the diplomatic representatives of two countries; and Japan was reluctantly forced to comply with the demand of the extremist group for the release of several prisoners who had committed serious crimes. This decision resulted fortunately in the release of the hostages unharmed. But, at the same time, the Japanese delegation admitted that the orderly functioning of the criminal justice system was seriously undermined. It suggested that in order to cope with such examples of modern crime, particularly of such a trans-national character, it was important to study problems on an international basis and in depth to determine what techniques could be used successfully to prevent their recurrence and to recognize that as crime has become more trans-national, international cooperation and collaboration are increasingly indispensable.

An interesting discussion also ensued regarding criminality associated with migration and flight from natural disaster and hostilities, along with electronic sepliner analysis, the forecast of crime and international crime control problems, but without any conclusions being reached. The latter three topics will be discussed again at the 1980 (Sixth) United Nations Congress.

Reference should also be made to the document prepared by the United Nations, on torture and other criminal, inhumane or degrading treatment or punishment in relation to detention and imprisonment,¹⁵ including grounds for arrest and pre-trial detention, which was discussed informally, at a number of

¹⁵UN Ref. A/10158, July 23, 1975.

meetings. The world community is clearly concerned with the offenders' right to be informed of offenses charged, the right to counsel, and to communicate with counsel freely as well as the other matters discussed above, in regard to pre-trial detention. There were a considerable number of observations and comments by the various delegates on Articles 24 to 27 of the draft on Principles of Freedom from Arrest and Detention, some of which are summarized in the above reference document. Along with discussions of the principle in the Universal Declaration of Human Rights, that everyone charged with a penal offense has a right to be assumed innocent until proved guilty according to law, such additional rights as the right to be informed of the offense charged, the right of the arrested or detained person to be informed of his rights, rights relating to investigation, rights to counsel, and the right to communicate with family and friends as well as protection against improper methods of interrogation mentioned also received attention. The comparative legal positions of the many countries represented at the Fifth United Nations Congress reflect basically a very considerable improvement in a great many nations in regard to the implementation of the rights of human beings in regard to criminal law and imprisonment.

Finally, a proposal by the Canadian Delegation with regard to a proposed bilateral agreement with the United States eventually evolving into a multilateral treaty on the exchange of parolees, evoked much comment among the delegates at the Fifth United Nations Congress. The Arab Delegations indicated that they have an agreement already in existence between the Arab world countries providing for the exchange of parolees and also for the exchange of prisoners.

The Fifth United Nations Congress clearly advanced criminal law and order planning and policy under United Nations leadership. In the year 1975, the United Nations, through the medium of the Fifth Congress, centered its attention and new efforts on the treatment of otherwise forgotten prisoners. For the 1980 Sixth United Nations Congress to be held in Australia, the groundwork has thus been laid for final advancement to Treaty level not only of the proposed new additional companion rules to the Standard Minimum Rules for the Treatment of Prisoners and Related Recommendations, but also in the form of a new International Code of Police Ethics, a Treaty on Torture, and a number of improvements in the criminal justice system, including international control of crime. The work done in this area provides man with an opportunity to redeem himself in the eyes of God and history for the grief which man himself has caused to his fellow man, so that those unfortunates who run afoul of society's protective regulations can yet retain some dignity, and perhaps emerge from punishment with a greater awareness that the implements of punishment are tempered with justice.

