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Committee I
5th Meeting* (PM)

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UN STANDARDS, NORMS PROVIDE STATES WITH VALUABLE GUIDELINES,

BEST PRACTICES, CRIME CONGRESS COMMITTEE I TOLD

There was clear agreement in Committee I of the Eleventh United Nations Congress on Crime Prevention and Criminal Justice on the importance of continued work on United Nations standards and norms, the Chairman noted at the conclusion of today's discussion.

The Chairman, Matti Joutsen of Finland, said several speakers had underlined the increasing importance of that effort, as crime itself was evolving and constituted a threat, posed by organized crime and terrorism, to the security and stability of society as a whole. There was, however, also agreement that much remained to be done, both in developed and developing countries. Some speakers also had called for development of new standards and norms.

Speakers gave many examples of the impact that United Nations criminal justice standards and norms had had on national legislation and the innovative reforms that had resulted from their application.

Turkey's representative said that the United Nations standards and norms provided States with valuable guidelines and best practices, stating that many standards and norms had been implemented in his country's legal regime. First of all, Turkey had abolished capital punishment in all circumstances. A new Penal Code and a new Code of Criminal Procedures were part of an ongoing process to align national law with international legal instruments. As an innovation, he mentioned the fact that a new Code of Criminal Procedures had introduced the notion of conciliation. The prosecutor could ask the offender whether he or she admitted to criminal responsibility and would agree to pay for all or a great deal of material or moral damages. If that was the case, criminal procedures would be stopped.

The representative of Iran announced that, in his country, Dispute Settlement Councils had been established throughout in order to reduce the number of cases going to court. Dispute settlement had led to the acceleration of judicial proceedings and had resolved many disputes through mediation. It had also enhanced public participation.

Some speakers addressed the importance of alternative sanctions. Sweden's representative said that a fully functioning justice system was incomplete when a society provided only imprisonment as an option for sentencing. The value of probation and parole must be highlighted, as should alternative methods of punishment. In many places, probation was unknown.

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* 4th Meeting was not covered.

Community sanctions were not only more humane but also cheaper. An established parole and probation service was vital for the resocialization process, which would benefit society.

Speaking about peacekeeping operations, he said failure to establish the rule of law had a serious impact on most peace missions. To operate a prison and probation system in such a context meant facing enormous challenges. It was important for the international community to provide a platform for the justice system. Without a functioning system, the United Nations civilian police would be seriously hampered. It was, therefore, important to have prison and probation administrators and officers onboard from the very start of a peace operation. Pre-deployment training was important. Carefully selected and well-trained prison and probation officers should be given pre-training and clearance through a "blue card", which showed eligibility for prison and probation service in United Nations missions.

The representative of Germany said that, although not legally binding, United Nations standards and norms had strongly influenced the thinking of decision makers. The question was, did they still influence decision makers today? Not all the standards adopted in the instruments had been applied. One difficulty involved the dense network of overlapping provisions. Another difficulty was that the instruments were mainly only available in the working languages of the United Nations. He supported, therefore, a proposal to translate the United Nations compendium of standards and norms into all local languages.

The representatives of Canada, Oman, Chile and the United States also spoke.

Representatives of the Council of Arab Ministers of the Interior and the International Centre for the Prevention of Crime, both intergovernmental organizations, addressed the Committee as did representatives of two non-governmental organizations: the International Commission of Catholic Prison Pastoral Care and the World Society of Victimology. The Committee also gave the floor to Dahn Batchelor, an individual expert.

Background

Committee I of the Eleventh United Nations Congress on Crime Prevention and Criminal Justice continued its consideration of "Making standards work: fifty years of standard-setting in crime prevention and criminal justice" on the basis of a working paper prepared by the Secretariat (document A/Conf.203/8).

After giving a historical overview of the development of United Nations standards and norms in crime prevention and criminal justice, with the 1955 Standard Minimum Rules for the Treatment of Prisoners as a first, the working paper states that most of the United Nations standards and norms were adopted by consensus by the General Assembly or the Economic and Social Council and embody a common ideal of how criminal justice should be structured. Although the standards and norms do not impose enforceable obligations on Member States, such instruments provide practical guidance to States and enshrine goals, practices and strategies broadly accepted by the international community.

The paper describes the influence of United Nations standards and norms in the formulation of national policies and domestic legislation, as they are being utilized for pursuing domestic

criminal justice reforms by, for instance, using United Nations manuals. It further highlights the influence on the multilateral treaty-making process, on the work of other United Nations bodies, on regional developments and at the international level. The paper further describes the reporting and assessment mechanisms of the standards and norms, as well as their dissemination and awareness-raising.

On technical assistance, the paper states that the General Assembly, in resolution 46/152, had decided that the United Nations Crime Prevention and Criminal Justice Programme should be devoted to providing States with practical assistance, such as data collection, information and experience sharing, as well as training, in order to achieve the goals of preventing crime within and among States. The United Nations has consistently promoted standards and norms in the field of human rights and the administration of justice, as well as on crime prevention and criminal justice. Technical assistance includes assisting governments in ratifying to legal instruments, drafting of legislation and training.

In recent years, there had been growing emphasis of putting the rule of law at the centre of peacekeeping and peacebuilding missions and in post-conflict reconstruction through, among other things, the reform of criminal justice systems. According to the report, United Nations standards and norms constitute a solid basis for guidance in that context. The United Nations Office on Drugs and Crime has been involved in reviewing a set of comprehensive draft model codes for post-conflict criminal justice, known as the transitional codes.

On “the way forward”, the paper states that, in considering how to implement the recommendations to consolidate, streamline and better rationalize mechanisms for reporting on the application of standards and norms, the Commission on Crime Prevention and Criminal Justice has welcomed a “cluster approach”, by which reports would be clustered around a number of major issues. That new approach can contribute towards the drawing up of a road map for subsequent reporting cycles.

Much remains to be done in international standard-setting, the paper notes. States should make concerted efforts to apply international standards in all matters concerning children in conflict with the law and only use custodial measures as a last resort. In addition, special attention should be given to ensuring effective protection of victims of crime, in particular victims of organized crime and terrorism. Furthermore, consideration should be given to current efforts to establish effective legal and institutional frameworks for the enhancement of the rule of law and the protection of human rights.

The paper makes a number of recommendations to the Congress, including on mandatory sentences, which restrict the discretion of the courts to consider the circumstances of each offender and in applying alternative sanctions. States should also consider establishing structures and mechanism at the national level to deal with the promotion of the widest possible application of United Nations standards and norms.

Statements

LARS NYLEN (Sweden) said prisons as institutions did not attract a great deal of public attention. Discussion about the appropriate uses of imprisonment usually only occurred in the

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aftermath of a high-profile crime. Modern correctional management required a higher degree of professional skill and awareness. There had been serious change in many countries regarding imprisonment, and there was increasing pressure on prison systems. In a situation with decreasing public spending, the correctional system could easily be forgotten, and overcrowding was a serious problem. It affected the situation of prisoners and could be used as an excuse for not implementing standards and norms.

He said multinational efforts to promote peace and security would remain a considerable challenge for the international community. Sweden had initiated the “Challenges Project”, a multinational undertaking by a group of leading organizations from around the world in the field of peacekeeping. Peacekeeping operations were no longer the exclusive work of soldiers, as today, the rule of law was also a priority. Failure to establish the rule of law had a serious impact on most peace missions. To operate a prison and probation system in such a context meant facing enormous challenges. It was important for the international community to provide a platform for the justice system. Without a functioning system, the United Nations civilian police would be seriously hampered. It was, therefore, important to have prison and probations administrators and officers onboard from the very start of a peace operation. Pre-deployment training was important. Carefully selected and well-trained prison and probation officers should be given pre-training and clearance through a “blue card”, which showed eligibility for prison and probation service in United Nations missions.

He said a fully functioning justice system was incomplete when a society provided only imprisonment as an option for sentencing. The value of probation and parole must be highlighted, as should alternative methods of punishment. In many places, probation was unknown. Community sanctions were not only more humane but also cheaper. An established parole and probation service was vital for the resocialization process, which would benefit society.

ROBERT CORMIER (Canada) said the United Nations standards had laid a strong foundation for all countries who wanted to reform their criminal justice systems. As the scourge of transnational organized crime, terrorism and corruption was fought, it was important to remember the importance of an effective criminal justice system based on the rule of law, which presupposed an independent judiciary and prosecutors and police officers trained to respect individual rights. The effectiveness of such a system was, to a large extent, built on strategies designed to prevent victimization.

Norms and standards reflected the essence of justice, he said. On the fiftieth anniversary of the adoption of the Standard Minimum Rules for the Treatment of Prisoners, one could look with pride at the legacy of United Nations norms and standards to support crime prevention and criminal justice throughout the world. Much more remained to be done, however. Further norms and standards needed to be developed to keep pace with the growing body of knowledge and experience in the fields of criminal justice and human rights. Norms and standards were of limited value unless they were implemented by Member States. Canada strongly supported the work done by the Commission, the United Nations programme network of institutions, and non-governmental organizations in that area. Promotion of instruments through national legislation, practice, procedures and policies was key to their successful implementation.

Regarding norms pertaining to the treatment of prisoners, he said many countries had reported difficulties in providing conditions that met the United Nations norms. The situation was often exacerbated by overcrowding and the spread of infectious diseases, including HIV/AIDS. Canada joined with other Members that had advocated that further consideration be given to the proposed Charter of Fundamental Rights of Prisoners. Members had the collective responsibility of ensuring that an evolving set of instruments existed that Member States could rely on to refine their existing criminal justice systems or on which to build their systems during a transition period following conflicts. That essential package of instruments was composed not only of the relatively recent binding instruments, but also included the established body of norms and standards that served as the foundation of fair and humane criminal justice systems. Now more than ever, the Congress should reaffirm the vital role of the United Nations in the promotion of adherence to norms and standards for crime prevention and criminal justice throughout the world.

OTTO BOENKE (Germany) said the United Nations standards and norms developed over the past 50 years had influenced the German Parliament and other relevant authorities regarding criminal law reforms. While they were soft laws and not legally binding, they had strongly influenced the thinking of decision makers. The question was, did they still influence decision makers today? Not all the standards adopted in the instruments had been applied. One difficulty involved the dense network of overlapping provisions. Another difficulty was that the instruments were mainly only available in the working languages of the United Nations.

He supported the Austrian proposal to translate the United Nations compendium into all local languages. Since the application of the standards and norms was a long-term process, continuous review was required for the purpose of revising existing instruments. It was, therefore, useful to find a way of bringing the current essentials into an updated form. After 50 years of standard setting, the aim should be to find innovative approaches and to identify priority areas for the future, he said.

Germany welcomed the periodic review of selected standards and norms by the Crime Commission and the Secretariat, he said. That effort met with Germany's full support and was necessary for improving the application of standards and norms in a changing world. It was also important to consider whether new standards needed to be adopted in order to face new challenges and assess how existing standards could be more widely applied. Standards were needed in criminal justice and new standards must meet contemporary changes and requirements. Germany fully supported the recommendation contained in the working paper concerning the rights of prisoners.

TUFAN HOEBEK (Turkey) said the United Nations standards and norms provided States with valuable guidelines and best practices. In Turkey's law, many standards and norms had been implemented in national law. First of all, Turkey had abolished capital punishment in all circumstances in May 2004. A new Penal Code and a new Code of Criminal Procedures were part of an ongoing process to align national law with international legal instruments.

Giving examples of changes in criminal law, he said punishments had been rearranged to take into consideration modern circumstances. Short term imprisonment could be commuted to alternative sanctions such as fines, restoration of damages suffered by the victim, community service, and attending educational programmes, among other things. Those alternative sanctions

had reduced the overcrowding of prisons. The new Code of Criminal Procedures had also introduced the notion of conciliation. The prosecutor could invite the offender and ask whether he or she admitted to criminal responsibility. The victim was informed if the offender agrees to pay for all or a great deal of material or moral damages. Discussions during the process were conducted in confidence, and could not be used as evidence in any action.

He said necessary measures should be taken to keep the identity of witnesses confidential. Medical service personnel and social experts were trained on the special needs of women convicts. Women convicts would serve their punishment at home when punishment was less than six months. Imprisonment was postponed in case of pregnancy. Human rights law should become an integral part of justice systems, and United Nations standards and norms should continue to be a matter of high priority.

MOHAMMED KHALFAN AL-DIGHAISHI (Oman) said the Sultanate continuously sought to reinforce the rule of law, passing a number of laws in conformity with United Nations norms in the field of criminal justice. Oman's constitution set forth the basis for the country's criminal code, and criminal proceedings were based on respect for the norms of law. Oman had a comprehensive criminal system, based on international legality and guaranteeing offenders fair and just trials. He said his country was aware of the need to fight organized crime in all its forms, shapes and manifestations and it had participated in the drafting of the transnational organized crime convention. Oman had also made untiring efforts to fight the proliferation of narcotic drugs and had, in that connection, joined the United Nations convention against illicit drug trafficking. A special body had been created with the task of fighting trafficking in illicit drugs.

A commission had also been created to reform the prison system, he said. Oman had a number of laws to protect the rights of prisoners. No individual could be detained without a written order by a competent authority. Oman's prison system also provided for the social and medical protection of inmates, as well as the right to nutrition and psychological care. The interests of inmates' families were also provided for in the prison system. Correcting the behaviour of offenders and integrating them back into society was a focus of Oman's prison system.

YADOLLAH ALIZADEH (Iran) said that, over the last five years his country had undergone unprecedented reforms of the prison system and the methods of criminal justice administration criminal justice and crime prevention. The Code of Criminal Procedure had been revised; Dispute Settlement Councils had been established in order to reduce the number of cases going to court; and the prosecutor offices had been revived, among other things. That revision had been completed in 2000. Dispute settlement had led to the acceleration of judicial proceedings and had resolved many disputes through mediation. It had also enhanced public participation and was considered a successful experience.

He said the Code of Establishment of the Public and Revolutionary Courts had been revised in 2002. The Provincial Criminal Courts now were comprised of five high-ranking judges to hear major criminal offences. Two years ago, the prosecutor offices had again been established across the country. That had had a significant effect on the expansion of the criminal justice system and had resulted in a reduction of the number of cases lodged at the courts. A law on alternatives to imprisonment was being considered by the Council of Ministers. Certain courts had been formed to deal with child and juvenile offences in such a way that the judge enjoyed wide discretionary power to take correctional measures for delinquent children and youths. The integrity of the

judicial system in any society guaranteed -- and was a prerequisite for -- the health and efficiency of other public sector and governmental institutions, as well as for the private sector.

ARTURO ONFRAY (Chile) said that, in the 1990s, crime had become a serious political problem in Chile. Describing changes in the last 10 years, he noted that in 2000, Chile had begun to look at the issue of citizen security by involving the community in police activities. The National Council for Citizen Safety, an inter-institutional agency, had been established in 2004. Regarding law enforcement, efforts had been made to modernize the Carabineros, and both human and financial resources had been increased in that regard. The investigative and civil police force had also been improved in recent years in order to build capacity in criminal investigation and to play a key role in new criminal justice procedures. The number of police had been increased, and investigations were carried out more quickly.

Chile had also tried to improve the situation in commercial and tourist areas, he said. A preventive programme had been designed with the goal of developing a plan for rehabilitation and drug control. In the capital, an integrated forum -- the Secure South Plan -- had been established to address criminal activity in the southern part of the city. Criminal procedures were undergoing major reforms in a gradual, systematic process, which should be completed by June 2005. Some \$500 million had been dedicated to that reform. The idea was to replace what had been an inquisition system. The reform began by recognizing the value of restorative justice and victims' rights. New institutions had been created within the reform effort, including the provision of legal aid for those who could not afford it. The implementation of the procedural reform had been positively received by the people and was a major step forward, especially in terms of complying with international standards and conventions.

ERIC S. RUBIN (United States) said the United States always supported and promoted efforts to create and improve prisoners' rights around the world. The question of prisoners' rights had been addressed in numerous other United Nations forums, including the Commission on Human Rights, and international legal instruments addressed the issue as well, including the Standard Minimum Rule for the Treatment of Prisoners. He did not see evidence that the United Nations was failing to address the issue, and did not believe that the proposed charter of prisoners' rights would be helpful.

MOHAMMED KOMAN of the Council of Arab Ministers of the Interior said the Congress was meeting at a time of increasing organized crime, and cooperation between all States and relevant organizations was needed to face the scourge. The Council, established to develop cooperation and harmonize the efforts of Arab States, played a vital role in strengthening the links between various Arab security authorities. A great deal had been achieved, as the Council had adopted four periodic plans to meet the threat of drug trafficking. The Council had also adopted measures to fight terrorism, including the elaboration of an educational plan to strengthen moral values. All such achievements reflected the desire of members to fight criminal activity, and the Council also wanted to strengthen cooperation links with other actors in the field. The Council also cooperated with the United Nations, and participated in the formulation of the various conventions and their protocols.

DANIEL SANSAÇON, Director, International Centre for the Prevention of Crime, said personal and public safety was a common good, forming an integral part of the rule of law and

good governance. The International Centre for the Prevention of Crime, a specialized institution of the United Nations network of institutes on crime prevention and criminal justice, had long promoted a sustainable, embedded, approach to crime prevention. Experience had shown that crime prevention programmes and strategies needed to be sensitive to context and to gender and cultural differences.

He said there was ample evidence that well-planned early prevention strategies reduced later delinquency and victimization and also had other positive benefits. There was also evidence that well-planned city-based community safety programmes not only reduced crime and insecurity but enhanced the quality of life and social capital. There was also ample evidence that a national government's strategies in support of local action contributed significantly to increasing the sustainability and effectiveness of such local interventions. One of the challenges ahead was to move beyond the project-based approach to an integrated policy approach, involving all key sectors and civil society.

He said his organization strongly encouraged Member States to implement fully the United Nations guidelines for the prevention of crime. The Centre particularly supported one of the recommendations in the working paper that future review of the application of United Nations standards and norms should focus on identifying difficulties and problems, as well as best practices to overcome them. He hoped that the final declaration would strengthen its recommendation on crime prevention to reflect the state of available knowledge.

Non-Governmental Organizations

CHRISTIAN KUHN of the International Commission of Catholic Prison Pastoral Care said his organization considered the use of the United Nations standards a high priority. Non-governmental organizations who worked at the grass-roots level understood the importance of the standards. They were a key point of reference for training and the daily work of criminal justice personnel. Six weeks ago, a human rights conference for prisoners had taken place at the Vatican. At that meeting, participants had received a message by Pope John Paul II in which he recognized the urgent need to respect the rights of prisoners. He had reiterated that view several times. Mr. Khun said he was confident that the newly-elected Pope Benedict XVI would also emphasize that position.

Non-governmental organization paper number 1, contained in the documents before the Congress, focused on the promotion of the United Nations standards and norms. He fully shared the view that the final declaration should refer to the draft charter of fundamental rights of prisoners. While the draft charter might not be ready for approval, it must be kept on the agenda.

MARLENE YOUNG, World Society of Victimology, said where there was crime, there were human victims, victims of transnational organized crime, economic crime, corruption and terrorism. Yet, there was little in the proposed declaration on the impact of those crimes on individual victims, and their families and society as a whole. The central importance of all victims should be addressed in planning a criminal justice response. It was important not to forget that millions of people suffered harm as a result of individual crime and the abuse of power, and the rights of those victims still had not been adequately recognized. Promoting action on standards and

norms for the treatment of victims must be integrated with continuing action on standards and norms for the treatment of offenders.

She urged that alternative language in the declaration be included, which her organization had developed. She also urged that the Congress take five practical steps to assist Member States in their implementation efforts, namely: testing and promoting promising practices; training technical, financial and health professionals on guidelines for the treatment of victims; developing model laws and implementation measures to establish the United Nations principles in national legislation; fostering International Centres of Expertise; and ensuring that the special needs of women, children and others vulnerable to chronic victimization were met. "Justice afforded to the criminal without addressing the victim is justice denied", she said in conclusion.

DAHN BATCHELOR, an individual expert, noted that, when he had attended the Sixth United Nations Congress in 1980, he had presented a paper on the need for a bill of rights for young offenders. The United States delegation had agreed with the proposal and brought forth a resolution asking delegates to instruct the United Nations to conduct worldwide meetings for the following five years to draft such a standard. The proposed bill of rights, known as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, had been adopted by the Assembly in 1986. In 1980, his complaint had related to government correctional facilities housing young offenders.

A quarter of a century later, problems in young offender correctional facilities remained, he said. Public concern for treating juvenile offenders had waned, as had the attention of child-advocacy groups to battles considered already won. He believed that the United Nations Standard Rules on the Administration of Juvenile Justice should be amended by including references to privately-run young offender correctional facilities.

In giving an overview of the deliberations, the Chairman of Committee I, MATTI JOUTSEN (Finland) noted the clear agreement in the Committee on the importance of continued work on standards and norms. He said several speakers had stressed that the importance of the work was increased by the fact that crime itself was evolving and constituted a threat, posed by organized crime and terrorism, to the security and stability of society as a whole. There was also agreement that much remained to be done, both in the developed and developing countries. Some speakers had called for the development of new standards, and there also seemed to be agreement that more information was needed on the impact of standards and norms.

He said many examples had been given of the impact of the United Nations standards and norms and how they had informed national legislation and led to the establishment of new institutions and the reform of existing ones. Examples of various innovative training programmes had also been given. Several speakers had referred to the fact that implementation of standards and norms required resources. The importance of cooperation with and involvement of civil society and the private sector had been underlined.

It had been recommended, among other things, that high priority should be given to standards and norms within the United Nations programmes. Speakers had supported the recommendation regarding flexibility in sentencing. The role of the United Nations in providing technical assistance had been highlighted, but some had cautioned that resources must somehow be

generated. Speakers had agreed on the importance of international cooperation in the promotion of United Nations standards and norms. In that regard, he said that the current session had been a good example of how to share information on success stories, which might be an inspiration to other countries.

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